

**VOTING RIGHTS ACT: SECTION 203—
BILINGUAL ELECTION REQUIREMENTS
(PART II)**

HEARING
BEFORE THE
SUBCOMMITTEE ON THE CONSTITUTION
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED NINTH CONGRESS
FIRST SESSION

NOVEMBER 9 AND NOVEMBER 10, 2005

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**VOTING RIGHTS ACT: SECTION 203—
BILINGUAL ELECTION REQUIREMENTS
(Part II)**

WEDNESDAY, NOVEMBER 9, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE CONSTITUTION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 5:10 p.m., in Room 2141, Rayburn House Office Building, the Honorable Steve Chabot (Chair of the Subcommittee) presiding.

Mr. CHABOT. The Committee will come to order.

Okay. We want to thank the witnesses for being here this afternoon. This is the Subcommittee on the Constitution. I'm Steve Chabot, the Chairman. This is our eighth in a series of hearings relative to the Voting Rights Act and its reauthorization.

This is the second hearing we've had here this afternoon. The Chair would request and ask unanimous consent that we waive opening statements from Members up here and get right to the panel.

Hearing no objection, so ordered.

I will move directly then to the introduction of our panel of distinguished witnesses here this afternoon, soon to be this evening.

Our first witness will be Ms. Jacqueline Johnson, Executive Director of the National Congress of American Indians. As Executive Director, Ms. Johnson is responsible for monitoring all Federal policy issues that affect tribal governments, coordinating communication among tribal governments, and overseeing consensus-based policy developments among NCAI's 250-member tribal governments.

Prior to joining NCAI, Ms. Johnson served as Deputy Assistant Secretary for Native American Programs at the U.S. Department of Housing and Urban Development; was Executive Director of the Tlingit Haida Regional—I apologize if I've butchered that pronunciation—Housing Authority, headquartered in Juneau, Alaska; served as Chairperson of the National American Indian Housing Counsel, and was appointed to the National Commission on American Indian, Alaskan Native, and Native Hawaiian Housing.

In addition, Ms. Johnson serves on a number of boards and national executive committees, and continues to be involved in American Indian youth development, having served as the Director of a Native Youth Culture Camp for 13 years.

Ms. Johnson is a member of the Raven-Sockeye Clan of the—would you pronounce that tribe? I want to make sure I don't mispronounce it again. Is it?

Ms. JOHNSON. Tlingit.

Mr. CHABOT. Tlingit. Okay. Tribe. Thank you very much.

Our second witness will be Mr. K.C. McAlpin.

Mr. McAlpin currently serves as the Executive Director of ProEnglish, a national non-profit group dedicated to preserving English as the common language, and to making it the official language of the United States.

Prior to his public interest work with ProEnglish, Mr. McAlpin worked for an oil company in South America, Central America, and the Caribbean, and served as a financial analyst for a Fortune 500 company, and as an international controller for a high-tech company.

Mr. McAlpin is a frequent guest on radio and television, including Good Morning America, Fox Morning News, CNN News, C-SPAN, Both Sides with Jesse Jackson, and the Lou Dobbs Show. We welcome you here also, Mr. McAlpin.

Our third witness is Mr. James Tucker. Mr. Tucker is a former trial attorney with the U.S. Department of Justice, Civil Rights Division, where he focused on voting issues.

While at the Department, Mr. Tucker was responsible for litigating several redistricting cases, including those in Georgia and North Carolina, as well as cases involving section 203, Federal Observer Coverage and Contempt Proceedings.

Mr. Tucker also has litigation experience in employment cases brought under Federal statute, such as the title VII of the Civil Rights of 1964, the Americans with Disabilities Act, the Age Discrimination and Employment Act, the Family and Medical Leave Act, and the Fair Labor Standards Act.

Mr. Tucker is a former law clerk to Chief U.S. District Judge Lawrence Paul of the North District of Florida, and is a former Air Force veteran, serving on AWACS during Desert Storm, operations in the Persian Gulf, and in the active reserves as an Assistant Staff Judge Advocate. We welcome you here also, Mr. Tucker.

Our fourth and final witness is Mr. Juan Cartagena. Am I pronouncing that correctly? Thank you.

Mr. Cartagena is General Counsel for the Community Service Society, a position he has held since 1991. As General Counsel, Mr. Cartagena is responsible for directing the legal department and public interest litigation on behalf of the poor in the areas of voting rights, education, housing, health, and environmental issues.

Prior to his work at CSS, Mr. Cartagena was the Legal Director in the New York Office of the Department of Puerto Rican Affairs in the U.S. for the Commonwealth of Puerto Rico, and served as an attorney for the Puerto Rican Legal Defense and Education Fund.

Mr. Cartagena has also served as a municipal court judge in Hoboken, New Jersey, and is a part-time lecturer at Rutgers University, Department of Puerto Rican and Hispanic Caribbean Studies. And we welcome you here also, Mr. Cartagena.

I also want to note that without objection, all Members will have 5 legislative days to submit additional materials for the record, and

I also note that Mr. Nadler has asked unanimous consent—will be granted unanimous consent to enter his written statement into the record, as all other Members will also have that opportunity should they chose to do so.

Mr. CHABOT. For those who may not have testified, I'll be very brief in this explanation.

We have what's called the 5-minute rule. There are two devices there that will have lights on them shortly. For 4 minutes, the green light will be on. The yellow light will come on. That let's you know you have 1 minute to wrap up. And the red light will come on, we'd ask you to wrap up by then, if possible. We won't gavel you down immediately. But try to stay within that as much as possible.

We also are limited to 5 minutes, and we apologize profusely for running late, but we had votes during the last hearing, and that ran us behind. And we also have three votes coming up here in a very short time, so we may be further delayed. And again, please accept our sincere apologies for that.

For those of you who may not have also testified before, it is the policy of this court to swear in all witnesses, so if you would please rise and raise your right hands.

[Witnesses sworn.]

Mr. CHABOT. All witnesses have indicated in the affirmative, and we're now ready for our first witness, so, Ms. Johnson, you're recognized for 5 minutes.

**TESTIMONY OF JACQUELINE JOHNSON, EXECUTIVE
DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS**

Ms. JOHNSON. Kus'een yu xat du wasaak. Lu kaa adi aya xat. Kogwaantan yadei. Veith Lit daax.

In my own language, Tlingit, I introduced myself and my Tlingit name is Kus'een, and I come from the village outside of Haines, Alaska, Chilkoot, and I come from the Raven-Sockeye house.

Thank you, Mr. Chairman and other Members of the Subcommittee, for me being able to testify on behalf of the National Congress of American Indians and the Native American Rights Fund.

I appreciate this opportunity to express our support for the reauthorization of all the provisions in the Voting Rights Act that are scheduled to expire in 2007, and in particular, I'm going to testify today on the reauthorization of section 203, the Continuing Need for the Minority Language Assistance Provisions, which recognizes the indigenous languages throughout Indian country.

Since 1944, the National Congress of American Indians has worked diligently to strengthen and protect and inform the public and Congress on the governmental rights of American Indians and Alaska Natives.

NCAI is the oldest and the largest national organization addressing American Indians' interests, representing over 250-member tribes throughout the U.S.

Since 1971, the Native Americans Rights Fund has provided legal and technical service to individuals, groups, and organizations on major issues facing Native people. NARF has become one of the

largest Native non-profit legal advocacy organizations in the United States.

Last week, at the NCAI Annual Session in Tulsa, Oklahoma, tribal leaders throughout the country passed a resolution calling upon Congress to reauthorize and expand the Minority Language Provisions of the Voting Rights Act. This resolution is attached and submitted as part of my written record.

Native Americans were historically disenfranchised people. Although Native Americans have inhabited North America longer than other segment of the American society, they were the last group to receive the right to vote when the United States finally made them citizens in 1924. And even after 1924, certain States with large Native populations barred Native Americans from voting by setting discriminatory voter registration requirements; for example, various States denied Indians the right to vote because they were under guardianship, or Indians were denied the right to vote because they could not prove that they were civilized by moving off the reservation and renouncing their tribal ties.

New Mexico was that last State to remove all expressed legal impediments to voting for Native Americans in 1962, 3 years before the passage of the Voting Rights Act.

In addition, Native Americans have experienced many of the discriminatory tactics that kept the African-Americans in the South from exercising the franchise.

With the passage of the 1965 Voting Rights Act, Congress took the first steps necessary to start the process to remedying the history of discrimination and disenfranchisement. While we have made tremendous progress in the last 40 years, we still have a long ways to go.

When the Voting Rights Act came up for reauthorization in 1975, Congress took another major step in adding section 203 to the Voting Rights Act.

Congress did so based upon its finding that educational inequality and racial discrimination prohibited full participation in the democratic process by Native Americans, Alaska Natives, and other language minority groups.

In 1992, Congress moved forward again, passing the Voting Rights language amendments, the provisions which are the subject of today's hearing.

At that time, Congress heard testimony from members of—a number of leaders across Indian country, all whom testified the importance of the Minority Language Provisions to Native communities. NCAI and NARF offered joint testimony in 1992, as well as documented the persistent educational inequalities and discrimination in voting that persists today.

While significant progress has been made in franchising Native Americans, the need for section 203 has not diminished in the years since Congress has added that section to the Voting Rights Act.

The value of section 203 to Indian country cannot be overstated. Today, to the new determinations released by the Census Bureau in July of 2002, 88 jurisdictions in 17 States are covered jurisdictions that need to provide language assistance to American Indians and Alaska Natives.

Section 203 has resulted in the filing of numerous minority language assistance cases involving American Indians and the vast majority being resolved by consent decree with covered jurisdictions agreeing to provide the necessary translations of written voter materials or the necessary oral assistance in polling places.

While no one knows exactly how many Native language speakers live in the U.S. today, the language provisions of 203 continue to be critical for many Native communities.

In many Native communities, tribal business is conducted exclusively or primarily in their own Native language, while many people, particularly our elders, speak English only as a second language. Even if they have English language skills, many Indian people still have and say that they feel more comfortable speaking in their own Native language and are better to understand the complicated ballot issues in their Native language.

Furthermore, it is the policy of the Federal Government, as expressed by the Native American Languages Act of 1990, to preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages.

The Native American Language Act was the first and may be the only Federal law to guarantee the right of language minority groups to use its language in public proceedings. Disenfranchising Native Americans by failing to provide language assistance in the electoral process to those who need it would certainly violate the statutory right.

Section 203 ensures Native people, particularly our elders, many who speak English poorly, have access to the ballot box.

As we continue today, I hope that you continue to encourage and to be able to ensure that the Native language provisions, or the language provisions in section 203 are maintained. Thank you.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF JACQUELINE JOHNSON

INTRODUCTION

Thank you Mr. Chairman and members of the Subcommittee. On behalf of the National Congress of American Indians (NCAI) and the Native American Rights Fund (NARF), I appreciate this opportunity to express our support for reauthorization of all of the provisions in the Voting Rights Act that are scheduled to expire in 2007; and in particular, to testify today in support of reauthorization of Section 203 and the continuing need for the minority language assistance provisions throughout Indian country.

Since 1944, the National Congress of American Indians has worked diligently to strengthen, protect and inform the public and Congress on the governmental rights of American Indians and Alaskan Natives. NCAI is the oldest and largest national organization addressing American Indian interests, representing more than 250 member tribes throughout the United States. Since 1971, the Native American Rights Fund has provided legal and technical services to individuals, groups and organizations on major issues facing Native people. NARF has become one of the largest Native non-profit legal advocacy organizations in the United States, dedicating its resources to the preservation of tribal existence, the protection of tribal natural and cultural resources, the promotion of human rights and the accountability of governments to Native Americans.

TESTIMONY—SECTION 203 SHOULD BE REAUTHORIZED

Last week at the NCAI Annual Session in Tulsa, Oklahoma, tribal leaders from across the nation passed a Resolution calling upon the Congress to re-authorize and expand the minority language provisions of the Voting Rights Act. This resolution is attached and submitted for the record. Native Americans were an historically

disenfranchised people. Although Native Americans have inhabited North America longer than any other segment of American society, they were the last group to receive the right to vote when the United States finally made them citizens in 1924. Even after 1924, certain states with large native populations barred Native Americans from voting by setting discriminatory voter registration requirements. For example, various states denied Indians the right to vote because they were “under guardianship,” or Indians were denied the right to vote unless they could prove they were “civilized” by moving off of the reservation and renouncing their tribal ties. New Mexico was the last State to remove all express legal impediments to voting for Native Americans in 1962, three years before the passage of the Voting Rights Act. In addition, Native Americans have experienced many of the discriminatory tactics that kept African-Americans in the South from exercising the franchise.

With the passage of the 1965 Voting Rights Act, Congress took the first necessary steps to start the process of remedying this history of discrimination and disenfranchisement. While we have made tremendous progress in the last 40 years, we still have a long way to go. When the Voting Rights Act came up for reauthorization in 1975, Congress heard extensive testimony regarding voting discrimination suffered not just by African-Americans, but also by Hispanics, Asian-Americans and American Indians. As a result, Congress took another major step by adding section 203 to the Voting Rights Act. Congress did so based on its finding that educational inequality and racial discrimination prohibited full participation in the democratic process by Native Americans, Alaskan Natives and other language minority groups.

In 1992, Congress moved forward again, passing the Voting Rights Language Assistance Amendments—the provisions which are the subject of today’s hearing. Under the 1992 amendments, Congress strengthened the triggering mechanism of section 203 by adding a numerical threshold provision and by adding the so-called “Indian trigger”—wherein a state or political subdivision is “covered” if it contains all or any part of an Indian reservation where more than five percent of the American Indian or Alaskan Native voting age population are members of a single language minority and have limited English proficiency. In 1992, Congress heard testimony from a number of leaders from across Indian Country, all of whom testified about the importance of the minority language provisions to Native communities. NCAI and NARF offered joint testimony at that time as well and documented persistent educational inequities and discrimination in voting that persist today. In passing the 1992 Language Assistance Amendments, Congress clearly recognized the need for language assistance in American Indian and Alaskan Native communities.

While significant progress has been made in enfranchising Native Americans, the need for Section 203 has not diminished in the years since Congress added that section to the Voting Rights Act. Historically disenfranchised, Native Americans continue to need and to use language assistance in the electoral process today. This assistance enables those who understand their own language better than they understand English to effectively participate in the democratic process. The value of Section 203 to Indian country cannot be overstated. Today, according to the new determinations released by the Census Bureau in July 2002, eighty-eight (88) jurisdictions in seventeen (17) states are covered jurisdictions that need to provide language assistance to American Indians and Alaskan Natives. Section 203 has resulted in the filing of numerous minority language assistance cases involving American Indians, with the vast majority being resolved by consent decree with the covered jurisdictions agreeing to provide the necessary translations of written voter materials, or the necessary oral assistance at polling places.¹

While no one knows exactly how many Native American language speakers live in the U.S. today, the language provisions of Section 203 continue to be critical for many Native communities. In many Native communities, tribal business is conducted exclusively or primarily in Native languages. Many Native people, particularly our elders, speak English only as a second language. Even if they have English language skills, many Indian people have said that they feel more comfortable speaking their Native language and are better able to understand complicated ballot issues in their Native language. Furthermore, it is the policy of the federal government, as expressed in the Native American Languages Act of 1990 (NALA) to “preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages.”² The NALA was the first, and may be the only, federal law to guarantee the right of a language minority group

¹ See e.g., *U.S. v. Bernalillo County*, No. 98–156–BB/LCS (D.N.M. July 1, 2003); *U.S. v. Arizona*, No. 88–1989–PHX EHC (D.Ariz. May 22 1989, amended September 27, 1993); and *U.S. v. San Juan County*, No. C–83–1287 (D.Utah Oct. 11, 1990).

² 25 U.S.C. 2901, et seq.

to use its language in “public proceedings.” Disenfranchising Native Americans by failing to provide language assistance in the electoral process to those who need it would surely violate this statutory right. Section 203 ensures all Native people, particularly our elders, many of whom speak English poorly if at all, have access to the ballot box. At the same time, it recognizes the importance of preserving and honoring indigenous languages and cultures.

Traditionally, voter participation rates by American Indians and Alaskan Natives have always been among the lowest of all communities within the United States. While voter registration and turnout by Native American voters is still below non-Native averages in many parts of the country, many Native communities have seen steady, even significant increases, since the passage of the Voting Rights Act. In recent years, there has been a steady increase in the number of Native American candidates who are being elected to local school boards, county commissions and state legislatures.

In 2004, the National Congress of American Indians spearheaded a groundbreaking campaign to register and turn out a record number of American Indian and Alaskan Native voters. Known as “Native Vote 2004,” NCAI, in collaboration with various national and regional organizations, local tribal governments, urban Indian centers and, most important, many grassroots organizations throughout Indian country, coordinated an extensive national non-partisan effort to mobilize the Native vote and to ensure that every Native vote was counted. The culmination of the Native Vote 2004 efforts on November 2nd was a resounding moment for tribal governments nationwide, as it empowered Native voters and raised the profile of Native issues in the eyes of politicians.

In the appendices to our testimony, we have provided a copy of our study: *Native Vote 2004: A National Survey and Analysis of Efforts to Increase the Native Vote in 2004 and the Results Achieved*. To our knowledge, this report is the first of its kind in Indian country. This study provides background information, Native voter participation data and election results for eight states: Alaska, Arizona, Minnesota, Montana, New Mexico, South Dakota, Washington and Wisconsin. Each assessment provides invaluable information regarding how the Voting Rights Act is working in Indian country, and the challenges that still lie ahead.

We anticipate that the substance of this report will provide, in part, the evidentiary basis underlying the need to strengthen and extend the Voting Rights Act. At its essence, the research shows a direct correlation between focused localized commitments to increasing voter participation rates in Native communities and the actual increases that result. I submit to you that Section 203 is an essential component to ensuring the success of such focused localized commitments in our Native communities. Thank you.

ATTACHMENT 1



NATIONAL CONGRESS OF AMERICAN INDIANS

**The National Congress of American Indians
Resolution #TUL-05-090**

TITLE: Support Reauthorization of Provisions Set to Expire in the Voting Rights Act

EXECUTIVE COMMITTEE

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, through its unique relationship with Indian nations and tribes, the federal government has established programs and resources to meet the educational needs of American Indians, Alaska Natives, and Native Hawaiians, residing on and off their reserved or non-reserved homelands; and

WHEREAS, while the Indian Citizenship Act made Native Americans eligible to vote in 1924, state law determined who could actually vote, which effectively excluded many Native Americans from political participation for decades; and

WHEREAS, the Voting Rights Act was enacted to remove barriers to political participation and prohibit the denial of the right to vote on account of race or color and as a result, the Voting Rights Act has guaranteed millions of Americans the equal opportunity to participate in the political process and is considered one of the most successful civil rights laws ever enacted by Congress; and

WHEREAS, while much progress has been made in the area of voting rights, significant hurdles to securing voting rights for still remain as documented by a recent court case in South Dakota detailing three decades of systematic voting rights abuses against Native Americans; and

WHEREAS, while most of the Voting Rights Act is permanent, some provisions are set to expire in 2007, including: a requirement that states with a documented history of discriminatory voting practices obtain approval from federal officials before they change election laws; provisions that guarantee access to bilingual election materials for citizens with limited English proficiency; and the authority to send federal examiners and observers to monitor elections in order to prevent efforts to intimidate minority voters at the polls.

NOW THEREFORE BE IT RESOLVED, that the NCAI, in light of the history of discrimination that minorities have experienced when voting, and the proven effectiveness of the Voting Rights Act, encourages Congress to:

1. Re-enact the Section 5 pre-clearance requirements for 25 years, consistent with the time period adopted with the 1982 extension. These provisions directly impact nine states (South Dakota, Arizona, California, New York, Florida, Michigan, Louisiana, Mississippi, and Texas) with a documented history of discriminatory voting practices, and local jurisdictions in seven others by requiring them to submit planned changes in their election laws or procedures to the U.S. Department of Justice or the District Court in Washington, D.C. for pre-approval. Congress should also consider options for modifying the mechanism by which coverage is determined in order to expand coverage to additional areas with a high concentration of Native Americans.
2. Renew Section 203 for 25 years so that the indigenous people of what is now called the United States and other Americans who are limited in their ability to speak English can continue to receive assistance when voting. Of the 466 local jurisdictions impacted by this provision, 102 jurisdictions must assist American Indians and Alaska Natives in 18 states. Congress also should modify the formula by which these covered jurisdictions are identified in order to provide more communities with Section 203 assistance.
3. Renew Sections 6 to 9, which authorize the attorney general to appoint election monitors and poll watchers to ensure voters are free from harassment, intimidation, or other illegal activity at the polls on Election Day; and

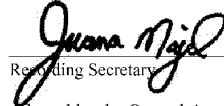
BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted at the 2005 Annual Session of the National Congress of American Indians, held at the 62nd Annual Convention in Tulsa, Oklahoma on November 4, 2005 with a quorum present.



Joe Garcia, President

ATTEST:

Recording Secretary

Adopted by the General Assembly during the 2005 Annual Session of the National Congress of American Indians held from October 30, 2005 to November 4, 2005 at the Convention Center in Tulsa, Oklahoma.

NATIVEVOTE2004



**A National Survey and Analysis of Efforts to Increase
the Native Vote In 2004 and the Results Achieved**



Produced by the First American Education Project
Russ Lehman, Managing Director; Native Vote Report Project Director,
Alyssa Macy, Native Vote 2004 Project Director, Senior Researcher/Co-Author,
Center for Civic Participation



Sponsored by the National
Congress of American Indians

Acknowledgements

The First American Education Project wants to expressly recognize the incalculable contributions to this report from senior researcher and co-author Alyssa Macy. From her vantage point as a national leader in the Native Vote 2004 effort, Ms. Macy played a critical role in the design, coordination and implementation of this nation wide project. We would like to expressly recognize the extensive

time, effort, expertise, energy and skills she brought to this report.

We regret that it is impossible to name all the people who provided valuable input to this report, but we would like to make a special acknowledgment of the contributions of the people/organizations named below:

Jackie Johnson, Ex. Dir., the National Congress
of American Indians (NCAI)

Irene Folstrom, NCAI

Attorney Pat Smith, Montana

Nancy Warneke-Gaynor, Montana

Brett Healy, South Dakota

Gwen Carr, Wisconsin Native American Caucus

Roxanne Hait, Arizona Indian Gaming Association

Amber Carrillo, New Mexico Moving America Forward

Laurie Weaheke, Bineshi Albert, Sonny Weaheke, SAGE Council

Judy Hanks, Native Vote – Minnesota Style

Keegan King, Soltari, Inc., New Mexico

Tom Katus, Northern Plains Tribal Voter Education Project

Patti Hibbeler, Arizona Moving America Forward Foundation

Zane James, Native American Election Information Program,
NM Secretary of State Office

Joel Foster, Arizona Leadership Institute

Richard Harding, Pinal County

Dan Sena, Moving America Forward

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Executive Summary

"If liberty and equality, as is thought by some are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost"¹.

This study was conducted to examine the state of Native participation in the American electoral process generally, and the specific impact of the effort in 2004 to dramatically increase that participation. A combined survey approach was utilized whereby primary data collection from the U.S. Census, individual state Secretary's of State offices and County Auditors provided the numerical underpinnings while secondary sources, Tribal Leaders and activists, provided indispensable background and anecdotal information.

While election turnout by Native Americans has traditionally been among the lowest of all communities in the U.S., dramatic changes have occurred recently such that, in some places, Native and non-Native participation rates are closer than ever.

From treaty ratification to abrogation, from Trust responsibility to culpability, from natural and cultural resource protection to destruction, federal, state and public officials have tremendous influence over the very nature of the relationship between Natives and other Americans.

In the past, and until only recently, many circumstances conspired to discourage Native Americans from participating in the election of those who could, and often do, exercise dramatic power over their lives. There was, and with some still remains, the fear that "registration" of any kind with a non-Indian government could have



only negative consequences. It was also axiomatic within Indian Country that to participate in the election of non-Indian government officials served only to undermine their own true sovereignty. Finally, and perhaps most importantly within the context of this report, historically, Native Americans simply felt that their voice wouldn't matter.

Indian Country has seen significant changes in the last 15 years. Along with the increase in economic opportunities present in many Native communities have come the greater vested interest in politics and policymaking in state capitals and Washington, D.C. where the gains made are often viewed as at risk. At the same time in the U.S. generally, elections have become more regularly so close that small electoral minorities can have a determinative role in the outcome.

Recently, coordinated participation and activism with Indian Country has had dramatic electoral results. In Washington state and in South Dakota federal race winners were determined by the participation of Native Americans. In Arizona, the

¹ Aristotle (384 BC - 322 BC), *Politics*.

fate of state office candidates and ballot measurers were determined by the participation of Native Americans. While it had always been known that Native voters could help determine local election winners and losers, for the first time candidates for statewide and federal offices became plainly aware of the importance of Native constituencies.

With the high profile impacts that Native voters were having, it was not long before the national media recognized the potential new found power and a proliferation of stories appeared highlighting Native "victories" and forecasting even greater influence in the 2004 elections. This served to reinforce the growing confidence of some Native communities and the "sky became the limit."

Many analyses occurred of both recent victories and the potential for even more dramatic results in 2004. The empowerment felt in Native communities was palpable. Clearly there can be no downside to the self-assuredness developing in some communities where for far too long detachment and dependence was the prevalent *raison d'être*.

To vote because one's voice may in fact be the determining factor in an election is an essential reward of Democracy. While the potential to have such power was a clear possibility in 2004, in perhaps more races across the U.S. than at anytime in U.S. history, some critical electoral realities may have gone somewhat under appreciated.

The "stars" which "lined up" in recent races so that Native voters had an impact far beyond their numbers were essential prerequisites for a recurrence. Particular candidates and/or issues of interest, an evenly divided electorate, a Native lead coordinated and professionally engineered campaign, to register and get-out Native voters, and consensus among Native communities are all factors recent history shows are directly relevant to increasing the likelihood Native voters will turn out in greater numbers in state and federal races.

The challenges inherent in documenting Native voting patterns are considerable. Urban Indians

are dispersed and difficult to organize and track, and data collected within non-standardized and incomplete frameworks created and maintained by non-Indian organizations present formidable obstacles to obtaining the full picture. It is within this environment, and maybe because of it that no such effort has endeavored previously to increase Native participation in the electoral process across the U.S. Further, there remains a dangerous paucity of data and analysis of actual participation so necessary in order to achieve meaningful increases in such participation.

In 2004, the rule was again proven true in that circumstances varied greatly from tribe to tribe and state to state. Overall, Native participation grew from a small amount in some places to tremendously in others. The extent to which increases occurred were directly tied to the presence of the factors listed above with one important addition: the first-of-its-kind national Native Vote effort can be credited with a near perfect record in directly resulting in increased participation.

Participation rates varied greatly, even where Native Vote was active. In addition, the absence of a Native Vote effort, as sponsored and coordinated from outside, did not necessarily mean participation rates didn't increase. In Montana, few outside resources were available, yet the results there were remarkable.

In an election year where hopes were high that Native voters would "make history," many Native-preferred candidates were unsuccessful. While party preference among Native voters remains consistent, the overwhelming support of Native voters can be virtually guaranteed only when a candidate has a record of support for Native issues. Further, in such cases where a candidate has a consistent record of hostility towards issues of importance to Native voters a strong showing of electoral opposition from Native voters can almost be assured.

Introduction

Purpose of the Report

There was extensive focus on the potential electoral significance of the Native vote in the run-up to the 2004 elections. From within Indian Country tribal leaders and activists worked to mobilize existing voters and register new ones. The political media produced numerous stories on the effort to increase the role Native voters now play in elections and the potential impact of Native participation, especially in close races and “swing” states. Candidates from both major political parties for myriad local, state and federal offices courted Native voters as never before.

It was within this environment that an extraordinary commitment of resources was made to increase Native participation. Indian Tribes, foundations, political organizations and others committed substantial resources and enlisted numerous activists to increase Native participation.

Given that an effort quite like this has never before occurred in Indian Country, it is especially important to gather and analyze the data available in order to discern those practices that produced measurable and meaningful results from those which perhaps were less effective at increasing Native participation in the electoral process. Since there were efforts that were both partisan and non-partisan, this assessment has taken all relevant factors into consideration.

This research follows upon “The Emerging Role of Native Americans in the Electoral Process” (www.first-americans.net) report produced by the First American Education Project after the 2002 elections. Like the earlier report, it intends to educate Native Americans about their role in determining who “make the rules and set the policies” and encourage their full involvement in this participatory Democracy. The health and welfare of the American electoral process is predicated upon the participation of all Americans.

In order to be of the greatest value to Indian Country, and to all those who care about the Native voice in the American government, this report considers all data objectively and without

bias towards a particular outcome. This report is intended to provide the reader with a clear look at the results from the 2004 election as they are.

Background

As a result of the dramatic electoral results in Washington state in 2000 and in South Dakota and Arizona in 2002, Native Americans became aware of the power of their voice in determining who makes the laws and sets the policies which affect their every day lives. Natives were not alone in this realization. The media, political constituency groups, political parties and, of course, candidates themselves started to pay close attention to the participation of Native Americans in federal and state politics for virtually the first time in U.S. history.

With a Presidential race, control of the U.S. Senate, the entire House of Representatives, many Governors races, statewide ballot measures and most of the country’s Statehouses all at stake, 2004 became a critical year for Native Americans to keep up the momentum and increase participation rates among a population which still participated in the electoral process at rates far below the average for the general population.

Never before had Indian Country experienced such attention. Never before had such a commitment of time, energy and resources been expended in an effort to increase Native participation in American politics.

It was within this environment that many leaders within Indian Country determined that 2004 was to be a priority for increasing Native participation and thus “Native Vote 2004” was created. By and through the National Congress of American Indians (NCAI) and National Voice at the national level, and countless Tribes and independent groups at the statewide and local levels, Native communities were educated, organized, and trained to increase registration and turnout numbers.

With the attention and commitment, hopes and aspirations rose to levels previously unforeseen. A Choctaw woman in Oklahoma with a

personal record of accomplishment and electoral success ran for Congress. If she were to succeed she would be the first Native American woman to serve in the U.S. House of Representatives. With the retirement of the only Native member of the U.S. Senate, another Native candidate was running from Oklahoma and if he were to succeed, would become that body's sole Native member.

Of course Native candidates, at the federal level, will always be a minority of all those running. Indian Country recognized this and set their sights on having an impact, perhaps the deciding impact on numerous races around the U.S. where candidates articulated positions and/or had records on issues of importance to Native Americans.

The projects throughout Indian Country were almost entirely non-partisan. While the political parties were involved in some organizing, for the express or implied purpose of increasing turnout for their candidates, the vast bulk of all projects within Indian Country were funded by charitable contributions and were required to be non-partisan. The research conducted for this report indicates that the efforts were conducted with one goal – increasing Native participation in this election – not support for any particular party or candidate.

The almost religious commitment to non-partisan political activities by many of the groups who worked to increase Native participation has been questioned by some who mistake ideological affiliation for partisan affiliation. Native voters, like all others, will tend to come out and vote for those who speak to them and who have a record of support for issues important to them. They will also come out and vote against those who oppose their interests.

Pronouncements of ambitious goals were set forth publicly and with fanfare regarding the anticipated increase of Natives in the election and the intended impacts on election results. Well-intentioned and sincere, many of the likely outcomes promised were based more on unabashed optimism than on realistic assessments.

The results of the U.S. Senate elections in Washington and South Dakota gave rise to an “imagine what is possible” attitude in some parts of Indian Country. With that came high expectations of specific electoral victories and political influence that would occur as a result of the increased turnout to come. To the extent success of the Native Vote effort in 2004 is judged only on these terms it could be considered far less than successful.

To use specific electoral “victories” as the only criteria to determine its success would be to miss critical outcomes that will have long-lasting implications, especially if participation rates continue to increase. The goal of full participation by Native voters is important in and of itself. The voice must be heard even when it is not determinative in any particular election race.

While registration and turnout is still below non-Native averages in many parts of the country, many Native communities saw increases of 50 percent to 150 percent in their turnout. Further, while many Native - favored federal candidates lost their races, many Native and pro-Native candidates fared far better in their local races. The tremendous success of Native Members elected to the Montana State Legislature is a testament the power of Native voters at the smaller geographic and jurisdictional levels.

The research conducted for this report shows a direct correlation between focused localized commitments to increasing participation rates in Native communities and the actual increases that result.

This report also sheds light on the challenges facing those who strive to increase Native participation. With between 50 percent and 60 percent of Native populations living off-Reservations, often in urban areas, much more effort must occur to find, organize and turnout those eligible voters.

With the only very recent passing of 2004, we cannot know whether Indian Country will continue to increase its civic participation and more of those eligible will actually participate. The results

of this study however show that when concentrated and coordinated efforts occur, increases, sometimes dramatic, will result.

Methodology

Tracking the voting participation of a particular community of American citizens is a difficult task. To do so for Native American communities is a daunting challenge indeed. The U.S. Census served as the primary source for the population data used in this report. This poses particular challenges because reporting in Native communities for Census purposes is notoriously inaccurate, especially in rural and remote areas.

For purposes of this report, population and age of population data are from the U.S. Census 2000 Decennial Survey. While this creates some level of scientific uncertainty, generally, population in many areas used as data points for this report has not changed significantly since the Census data was gathered. Further, this report uses Census 2003 estimates where possible in order to use the most accurate numbers available. In those cases where Tribal generated data was available, it was used and is so noted.

The U.S. Census accounts for the race of American citizens in a number of different fashions. For the purposes of this report, unless otherwise noted, "Native" when used in the context of a numerical (or age) representation of people means "American Indian or Alaska Native Alone or in Combination with one or more races."

Election registration and turnout data was derived from state secretary's of state offices as well as county auditors. Here again, while this remains the best and often only source for such data, there are great variations from state to state with regard to inactive or disqualified voter removal processes.

The term "eligible voter" in this report means those voters who are of Voting Age Population (VAP) minus those who are otherwise disqualified (where known). When available, VAP data is best used when at the smallest jurisdictional level possible (i.e., precinct or ward). That data, provided by the U.S. Census Bureau, was not available to the

authors for every state we analyzed. In those cases, VAP at the next smallest jurisdiction available in that state was used (i.e. county or Reservation).

In this report anecdotal information was gathered and analyzed to a great degree. For purposes of providing explanation and background, in order to paint the fullest picture possible, the researchers relied heavily on "reports from the field" from Native leaders and activists who were "on the ground" across the country working to increase Native participation. Because great reliance was placed on those who gathered data, and/or personally undertook the Native Vote effort themselves, the information used here is as current and thorough as what was provided to the researchers by this writing.

Because of the unique issues presented by attempting to chronicle Native voting patterns, with a high degree of scientific certainty, this report utilizes data gathered from only those jurisdictions where the proportion of Natives is sufficient enough to analyze their behavior as opposed to non-Natives. While many counties in various states have significant Native populations, if the county did not meet a threshold of at least 85 percent Native population it was not used for data purposes. Any exceptions are so noted.

Whenever possible, precincts or wards, are used where the Native population is at least 90 percent so that an analysis of Native voting can occur with as little dilution as possible. Again, any exceptions are so noted.

Finally, it would likely be neither possible nor particularly productive to analyze every precinct, county or state where Native Americans reside in order to make an assessment of the Native vote in 2004. The researchers here determined particular states (and particular Tribes within these states) upon which to focus this report based on a number of circumstances including, but not limited to: Native Vote 2004 activities, Native population and relative ease with which data could be gathered.

Alaska

Fast Facts

Total Native American Population	119,241 (19.0%)
Bethel Census Area	13,680
Nome Census Area	7,274
Anchorage	26,995 (10.4%)
Sealaska Native Corporation ²	15,059
Reservations at-large/Native Corporations in state	49/12
Statewide Native American VAP (estimate)	83,468

Recent margins of victory:

U.S. Senator Lisa Murkowski (2004, over former Governor Tony Knowles) by: 9,349
 State Senator Hollis French, Anchorage (2004 General Election) by: 3,349
 State Rep. Richard Foster, Nome (2004, General Election) by: 1,329

Background

It is axiomatic that the state of Alaska is like no other. At the same time, like some other states studied here (i.e. South Dakota, Montana, Oklahoma) the Presidential race was never in question in Alaska. President Bush had consistently polled well in the state and neither candidate made the state a priority. Also like those other states there was, however, a statewide race which garnered much attention and had the potential to catalyze Native participation.

On the ballot last year was a heavyweight contest between U.S. Senator Lisa Murkowski and former Governor Tony Knowles. She was seeking her first election to the office to which she was previously appointed by her father who became Governor after becoming elected just two years prior. Both candidates were well known with established records for voters to consider.

Alaska is unique due to complicated distinctions between Native Corporation members many of which are in urban areas, and the rural Native Alaskans who reside in the vast open areas. In most other states Native voters, generally speaking and subject to a few notable exceptions, vote overwhelmingly for Democratic candidates. In Alaska, there has generally been a rural/urban split with

rural Natives voting heavily Democratic and urban Natives (i.e. Native Corp. members) tending to vote more Republican. Further complicating matters is the omnipresence of senior U.S. Senator Ted Stevens who occupies a very powerful position in the Senate over many matters important to Natives.

From an early point the candidates worked to increase, or exploit, their Native connections. Mr. Knowles worked lower 48 Tribes and Tribal contributors and was relatively successful on that front. His record as Governor was a "mixed bag" according to many Native leaders and activists in Alaska. Because of his support of opening ANWR, there was a considerable group of Natives opposed to him.

At the same time, Sen. Murkowski, and her close ties to Sen. Stevens and the Republican majority in Congress, both comforted some and concerned others. As the race developed, it became clear that neither one could claim sufficient support from a significant majority of Natives to either assume victory, or concede defeat. This was not to be a race where a clear anti-Native or pro-Native candidate was to so engage Native voters as to precipitate a groundswell of activity.

There were many reports from Alaska,

² Sealaska is a regional corporation formed under the Alaska Native Claims Settlement Act of 1971.

similar to those from South Dakota, that powerful officeholders from D.C. and elsewhere were utilized in an attempt to use their "power of persuasion" to encourage the support of one candidate or opposition to the other. It is unclear, and virtually impossible to measure what, if any impact this had on the race. Suffice it to say however, that in a race which was determined by 9,349 votes the stakes were high and many things likely had an impact on at least small numbers of voters, which when added together, could in fact have "made the difference."

The Get Out The Native Vote (GOTNV) campaign in Alaska³ was incentivized if not created by NCAI's national Native Vote effort. Two separate but coordinated projects were initiated under the GOTNV banner, one in Southeast and the other in the North. Leading the project in the North out of Anchorage was Vicki Otte (Cook Inlet), who has had, among many other roles, that of Redistricting Board Chair. She focused her considerable efforts on Anchorage, often called the "state's biggest Native Village." "As a young person, I ran around the village taking elders to the polling place... I've just seen so much that happens, or that we lose out on."⁴ While Vicki is originally from McGrath, her commitment now is to increase Native participation in Anchorage.

Historically, turnout in Alaska's rural areas has been relatively strong, but in Anchorage civic participation, as evidenced by voting, has been between 9 percent and 15 percent lower. To change that Vicki used various techniques to educate and motivate Native voters. She hired three voter registrants, trained them at the Alaska Division of Elections, and then dispatched them to the Alaska Native Medical Center and the Primary Care Center in Anchorage. The goal was to register 300 people in this period: they wound up registering 612.

Three other things Vicki did are especially noteworthy. The "Rock the Vote" concert in

Fairbanks was a "huge success," in that attendance surpassed expectations. Additionally, on site voter registration booths registered many who may otherwise have avoided registration. Also, by using the statewide Native Shareholder list for mailings and then to crosscheck with precinct voter roles to measure participation, Vicki has figured out how to use available data efficiently and effectively to increase the Native vote.⁵ Finally, the Get Out The Native Vote campaign conducted mobilization activities during the Alaska Federation of Natives Conventions held the week before the election in Anchorage which attracts approximately 10,000 Alaska Natives.

In the Southeast, the task of increasing the Native vote was happily taken on by Nicole Hallingstad (Sealaska) who conducted her operations out of Juneau. Perhaps the event most noteworthy created and undertaken by Nicole for GOTNV was the Community Meeting she arranged which offered the opportunity for candidates and Natives to meet each other and offered the opportunity for Natives to hear from the candidates their positions on a wide range of issues important to Native communities. Of course at the event, and coordinated with the League of Women Voters, were volunteers with information and the requisite forms to register new voters. Nicole reports 700 new voters registered through their efforts.

In Juneau, and throughout the Southeast, Nicole and GOTNV partnered with a coalition of other Native organizations to spread a "branded" Native voting campaign. In Juneau, housing communities were targeted as locations with a high proportion of Natives.

In recent elections results from rural areas, like Nome, turnout is typically around 61 percent of corporation shareholders. In the Mountain View area in Anchorage, only 36 percent of the Native shareholders voted while the overall turnout overall ranges from 60-70 percent.

³ <http://www.alaskanativetovote.com/>

⁴ "Push is on to 'Get Out the Native Vote'" Monday, September 27, 2004 - by Rhonda McBride, KTUU.

⁵ Unfortunately, as of this writing, the cross check with the voter turnout data from the precincts was not yet available. Historically, Vicki reports, that her efforts have "outperformed" non-Native efforts in Anchorage and Fairbanks.

Results

Statewide Alaska Voter Turnout, 1990-2004

Election Year	Registered Voters	Turnout	Turnout as % of those registered	Turnout as % of VAP
1990	300,467	197,540	65.75%	52.30%
1992	315,058	261,427	82.99%	N/A ⁶
2000	473,648	287,825	60.79%	66.01%
2004	472,160	312,598	66.23%	69.25% ⁷

As we have seen from time to time in other western states with large Native populations, the Alaska Secretary of State actually shows more registered voters than the Census-determined voting age population in 2000 and 2004. Regardless, the turnout listed must be considered accurate as it measures the percentage of those registered who actually voted. As such it provides a valuable benchmark for purposes of analyzing Native voting as compared to otherwise similarly situated non-Native Alaskans.

There are many predominantly Native precincts which report higher-than-the-state turnout

averages. An example is the Brevig Mission in the Nome area, and the Akiak precinct in the Bethel Census Area, both of which saw turnout rates over 70 percent. Anchorage's precincts average 54 percent.

Great variation occurs throughout the state with regards to Native participation. In the Wade Hampton Census Area (second only to Shannon County in South Dakota for the highest percentage Native population in the U.S.) and the Yukon-Koyukuk Census Area, which includes the Calista and Doyon Native Regional Corporations a 46.8 percent average turnout



⁶ Census VAP not available for 1992.

⁷ U.S. Census, 2003 estimated.

Precincts ⁸	Percent Native	Turnout
Brevig Mission	92.03%	71.05%
Diomedea	93.84%	53.09%
Gambell	95.8%	59.02%
Golovin	92.3%	65.26%
Koyuk	93.0%	72.33%
Savoonga	95.5%	61.63%
St. Michael	93.2%	56.52%
Stebbins	94.7%	53.53%
Teller	85.8%	52.78%
Unalakleet	87.3%	49.33%
Chefornak	97.9%	49.07%
Kipnuk	97.9%	43.07%
Kwigillingok	97.9%	39.57%
Lower Kalskag	95.51%	56.55%
Mekoryuk	96.9%	42.18%
Napaskiak	98.2%	37.37%
Toksook Bay	97.6%	53.52%
Tuntutuliak	98.9%	49.48%

Sum and Substance

Alaska presents perhaps the greatest opportunity for gathering and utilizing the data necessary to target Native voters in ways Tribes in the Lower 48 can only dream about. Because the Native Regional Corporations have the ability to identify the name, age and location of virtually all their shareholders, the GOTNV organization has already shown how it can connect with and educate Natives over a wide geographic area.

The next step is to then track eligible (to vote) shareholders to determine if they have voted so as to better determine actual turnout

results. Of course other opportunities to maximize Native participation also exist and are limited only by the imagination, commitment, and resources available.

One concern raised by GOTNV leaders is that due to the substantial rise in “outreach” by the political parties, the candidates, and advocacy groups, contacting many Natives for purposes of education and organization is becoming more difficult. The fear being that many households are already so inundated by political propaganda that getting through the “noise” is becoming more and more difficult.

⁸ Nome and Bethel Census Areas.

Arizona

Fast Facts

Total Native American Population	292,552 (5.7%)
Maricopa County (Phoenix included)	75,867 (2.5%)
Navajo County	47,593 (48.8)
Apache County	53,998 (77.8%)
Coconino County	34,579 (29.7%)
Federally recognized Tribes located in state	22
Statewide Native American VAP (estimate)	179,744

Recent margins of victory:

State Senator Jake Flake (2004, over Cameron Udall) by: 6,251
 Governor Janet Napolitano (2002, over Matt Salmon) by: 11,819
 Proposition 202 (2002) passed by 20,836 votes.

Background

In nearly every presidential election since 1948, Arizona voters have supported Republican candidates. Despite this trend, Democrats were optimistic heading into the elections following 2002 victories in the Attorney General and Governor's race and the 1996 victory by President Clinton. Clinton's victory was the first time a Democratic candidate had carried the state since Harry Truman in 1948. Further, political scientists indicated that rapid growth in the state could result in a more moderate population, giving Democrats further reason to invest in the states voters. In addition to the presidential election, Senator John McCain was seeking a 4th term, and all 8 U.S. House seats up for re-election. Candidates, elected officials, and others recognized that the sizable Native American population in the state could provide key votes in a close race.

Throughout the state, there were a number of Tribes and organizations working to mobilize Native American voters. Several campaigns kicked off in collaboration with the Governor's office with the proclamation of July as "Arizona Indian Right to Vote Month" and a celebration of the 56th Anniversary of Native Americans winning the right to vote.⁹ The Arizona Indian Gaming Association (AIGA)¹⁰ and Inter-Tribal Council of Arizona (ITCA)¹¹ took the lead on coordinating a statewide effort while the Arizona Leadership Institute (ALI) worked closely with the Navajo Nation to mobilize voters on the reservation. The Moving America Forward Foundation had both an urban and reservation effort and the Native American Community Organizing Project focused their efforts primarily on urban voters located in Phoenix metro area. Given efforts underway in 2004, Native American voter participation saw sizable increases in 2004 over 2000.

⁹ "The State of Arizona denied Native Americans the right to vote until 1948, in spite of a 1924 federal law granting them full citizenship. The Arizona Supreme Court ruled that the wording of the state constitution, which denied the right to vote to "mental incompetents and people under guardianship", included Native Americans as federal wards. The Court reversed itself in 1948 when Native Americans Frank Harrison and Harry Austin's right to register and vote was upheld." <http://azcapitol.lib.az.us/capitol/timeline1948.htm>

¹⁰ The Arizona Indian Gaming Association was established in 1994 as a non-profit organization dedicated to advancing the lives of Indian peoples in the state. For more information, visit: azindiagaming.org

¹¹ The Inter Tribal Council of Arizona was established in 1952 to provide a united voice for tribal governments located in the State of Arizona to address common issues of concerns. For more information, visit: <http://www.itcaonline.com/index.html>

The Moving America Forward Foundation (MAFF), a 501(c)3 organization, had a large statewide initiative to register and mobilize Latino and Native American voters throughout the state including Phoenix and Tucson. MAFF partnered with NCAI and National Voice to host two non-partisan Native Vote trainings in late summer that trained over 30 individuals working on mobilizing Native American voters in urban and reservation communities. Over the course of the campaign, they provided additional training and support to communities in setting up GOTV rallies and candidate forums. Their voter registration efforts across the state relied on paid canvassers who registered individuals at high traffic areas including the Indian Health Services located in central Phoenix and various tribal events throughout the state. They also worked closely with the AIGA/ITCA project by providing staff to register voters at casinos in the Phoenix metro area. In the month prior to November 2, MAFF hosted several early voting events on the Navajo Nation and used an autodial from Governor Napolitano encouraging Navajos to vote. Through their efforts and collaboration with some tribes, MAFF developed a Native American voter file with approximately 10,000 names of the total 57,006 new registrants statewide.

Native Vote Statewide Effort

AIGA/ITCA worked with a core group of 15 tribal and urban representatives over the course of their campaign to develop and implement voter mobilization efforts. AIGA/ITCA served as a coordinating body and facilitated communication between voter projects, prepared voter education materials, and developed Arizona Native Vote materials. Monthly meetings provided a forum for individuals to get feedback on their local efforts, recruit volunteers, and to coordinate efforts and resources. AIGA/ITCA worked closely with tribal casinos to open up these venues for voter registration efforts. Tribes were encouraged to

register all employees and provide non-partisan voter information to all tribal and casino employees. AIGA also submitted op-eds to tribal media outlets throughout the state encouraging Native people to make it to the polls. In the days leading up to the election, AIGA coordinated auto-dials to high-density Native American precincts with messages from Tribal leaders encouraging them to vote.

Individual tribal efforts included a variety of mobilization tactics. Several tribes, including the Tohono O'odham and the Salt River Pima Maricopa Indian Community, developed voter guides for tribal members. Several tribes, including Ak-Chin and the Ft. McDowell Yavapai Nation held early voting events where they bussed in tribal members to the polls to cast their vote. Over the course of the campaign, several tribes also held political forums for tribal members to educate them on the candidates and ballots that they would be voting on. The Native Vote Election Protection effort also worked closely with the AIGA/ITCA effort and Tribes to place poll watchers in precincts where high populations of Native Americans would be voting.





Phoenix Urban Native Vote Efforts

The U.S. Census identified over 75,000 Native American/Alaska Natives in Maricopa County in 2000. While a sizable number, locating the population for voter mobilization efforts was challenging. Transient populations, coupled with a large geographical area, make these efforts time consuming and expensive. Given the challenges, projects had to make adjustments to their organizing strategies to identify and register voters.

The Native American Community Organizing Project (NACOP)¹² continued their work in identifying and registering Native American voters in the Phoenix metro area. Their efforts included voter registration and education. NACOP also organized a Native American voting celebration concert held on November 2. The Native-POLL-Ooza¹³ concert was a free election day concert that was designed to “foster a climate of voter awareness within the Native American community and highlight the vital role that Native Americans play in Arizona’s political landscape,” according to Jonodev Chaudhuri, co-chair of the concert planning committee. The planning committee urged people to vote before coming to the concert and volunteers collected contact information from attendees to be used in NACOP’s ongoing organizing efforts. The concert served as a capstone to the many ongoing Native American voting efforts

in 2004 and drew several thousand attendees on November 2 to Indian Steele Park in central Phoenix.

Navajo Nation Get-Out-The-Vote Efforts

The Arizona Leadership Institute (ALI) undertook an ambitious effort to mobilize voters on the Navajo Nation. Working in partnership with the Office of the President and Vice-President of the Navajo Nation and the Office of the First Lady of the Navajo Nation, the ALI effort sought to mobilize the nation’s tribal members of voting age on the reservation. The Navajo Nation covers more than 25,000 square miles, an area larger than the states of Massachusetts, Rhode Island, Connecticut, and New Jersey combined, yet has only 7.2 people per square mile. With the population spread over such a large geographical area, there were significant adjustments that had to be made to traditional GOTV model. Complicating efforts further was the fact that the Navajo Nation elections and the general elections were happening on the same day – however, voters could not vote in both elections at the same site.

The Navajo Nation GOTV Project targeted 56 precincts in 3 Arizona counties including Apache, Coconino, and Navajo. The effort began in July and started off with a direct mail campaign coupled with an aggressive media campaign led by Alternatives/Alternativos, a multicultural marketing and public relations firm in Phoenix, Arizona. The brand, “Be my Voice, Choosing Leadership from Navajoland to Washington, D.C.” was chosen and incorporated into public service announcements (PSAs) as well as the media and direct mail campaigns. The media campaign was launched in early August, and was designed to prepare Navajo voters for a direct mail piece that they would receive encouraging the use of vote-by-mail. Partnering with the Navajo Times and KTNN Radio, the media campaign included radio remotes and outreach efforts at local events.

¹² NACOP is a non-profit, non-partisan organization that works to improve health care and educational opportunities for the off-reservation Native American Community of Arizona. For information on NACOP, visit: <http://www.phxindcenter.org/>

¹³ For more information on the Native-POLL-Ooza concert, visit: <http://www.native-poll-o-oza.com/>

The first mail piece was sent following the conclusion of the radio remotes and the Primary Election to a universe of approximately 51,000 individuals with a 2 of 4 incidence of voting. The goal of the direct mail campaign was to get a 3 percent response rate. Utilizing both English and Navajo, the piece incorporated the same imagery as the print campaign and contained informa-

tion on the importance of voting, key issues, and requested that individuals fill out the vote-by-mail request. The second and final direct mail piece was sent the week of October 11. This mail piece contained a "Count on Me" message that encouraged and reinforced the need for Navajo Nation Tribal members to vote on November 2. This piece was mailed to a universe of 29,000 households.

"Vote By Mail Request" Direct Mail - Total Returns¹⁴

As of	Apache	Navajo	Coconino	Totals
9/21/2004	292	744	13	1,049
9/23/2004	77	96	1	174
9/27/2004	68	37	3	108
9/30/2004	57	41	0	98
10/4/2004	47	60	1	108
10/8/2004	21	29	0	50
10/12/2004	25	35	0	60
10/18/2004	14	35	0	49
Totals:	601	1,077	18	1,696

The weekend prior to the election, ALI organizers knocked on all the doors in each targeted precinct. National Voice and NCAI provided additional funds to hire Lakota Action Express in South Dakota to do live calls to the ALI voter file. National Voice also provided funding for an auto-dial to the list. Notah Begay, a member of the Navajo Nation and a PGA tour golfer, recorded a message encouraging people to vote on November 2. On Election Day, ALI provided transportation in select precincts.

The Navajo Nation Office of the Speaker also had a GOTV effort underway in 2004. Working with an advisory board consisting of representa-

tives from the Navajo Nation Elections Office, Office of the Speaker, Department of Youth and representatives from urban areas in Arizona and New Mexico, their effort focused on voter education and registration of newly eligible Navajo voters. Presentations, combined with voter registration efforts were held at high schools in both states. Additional voter registration events were held at large youth gatherings such as regional basketball tournaments. The Office of the Speaker worked with National Voice to host the only reservation stop of the Rock the Vote Bus Tour in Lupton, Arizona, in late June.

¹⁴ Arizona League of Conservation Voters Education Fund and Arizona Leadership Institute. (2004). Navajo get out the vote "Be my voice" campaign. Direct mail pieces were also sent to Maricopa County tribal members. Data does not include requests from New Mexico.

Results

*Statewide Arizona Voter Turnout, 1996-2004*¹⁵

Election Year	Registered Voters	Turnout	Turnout as % of those registered	Turnout as % of VAP
1996	2,244,672	1,431,342	63.78%	53.33% ¹⁶
2000	2,173,122	1,559,520	71.79%	41.44%
2002	2,229,180	1,255,615	56.34%	33.37%
2004	2,643,331	2,038,069	77.16%	54.17%

In the 2004 election cycle, slightly more than half of the VAP cast a ballot statewide. However, over 77 percent of the registered voters made it to the polls. In general, reservations in the state saw voter turnout increases in 2004 from 2000. Ft. McDowell had 77 percent of its registered voters cast a ballot – matching the statewide average. They also had the largest increase in voter turnout of the tribes analyzed in Arizona. In 2000, less than half of the registered voters (49.50%) cast a ballot in the general election. The Colorado River Indian Tribes had 62.66 percent of their registered voters cast a ballot, followed by the Salt River Pima Maricopa Indian Community with 60.39 percent. Several other tribes mobilized over half of their registered voters on tribal lands. This includes: Tohono O'odham (59.24%), San Carlos Apache (58.34%), Havasupai (55.9%), Hualapai (55.49%), Cocopah (55.07%), and White Mountain Apache (50.20%). The Hopi Nation had the second largest percentage increase in voter turnout. This year, 43.63 percent of registered

voters cast a ballot compared to 29.99 percent in 2000. Finally, the Navajo Nation had an overall turnout of 53.79 percent of registered voters. This was a slight increase from 2000 where 49.24 percent cast a ballot in the general election.

For Arizona tribes, work over the years has resulted in increased voter turnout on tribal lands. However, in order to fully understand the voting potential, one must also look at turnout as a percentage of VAP. For example, Tohono O'odham Nation has approximately 6,840¹⁷ tribal members of voting age on the reservation. In 2004, the percentage of registered voters casting a ballot is almost 60 percent. However, only 41.03 percent of eligible tribal members made it to the polls. This indicates that future efforts should also focus on educating and registering those who are eligible to vote but haven't.

As with other states, turnout for Native Americans located in urban areas was not calculated.

¹⁵ Arizona Secretary of State and U.S. Census.

¹⁶ VAP calculated using 1990 U.S. Census data.

¹⁷ VAP data provided by Tohono O'odham Nation.

General Election Voter Turnout 2000, 2004 – Arizona Indian Reservations

Tribe	Year	Registered Voters	Turnout	Turnout as a % of those registered
Navajo ¹⁸	2000	56,326	27,736	49.24%
	2004	63,618	34,213	53.79%
Hopi ¹⁹	2000	1,851	555	29.99%
	2004	2,075	905	43.63%
Tohono O'odham ²⁰	2000	3,964	2,236	56.43%
	2004	4,739	2,806	59.24%
Gila River ²¹	2000	2,836	964	34.00%
	2004	3,166	1,504	47.51%
White Mountain ²²	2000	4,243	1,876	44.22%
	2004	4,865	2,442	50.20%
San Carlos ²³	2000	1,418	721	50.86%
	2004	1,735	1,012	58.34%
Colorado River Indian Tribes ²⁴	2000	1,414	757	53.56%
	2004	2,187	1,370	62.66%
Hualapai ²⁵	2000	365	184	50.43%
	2004	420	233	55.49%
Cocopah ²⁶	2000	2,089	1,010	48.35%
	2004	2,647	1,457	55.07%
Ft. McDowell ²⁷	2000	196	97	49.50%
	2004	355	274	77.22%
Havasupai ²⁸	2000	131	59	45.05%
	2004	102	57	55.9%
Salt River	2000	1,763	939	53.28%
	2004	2,444	1,475	60.39%

¹⁸ In 2004, the precincts located on the Navajo populations included: Apache (33), Navajo (18), and Coconino (20). There are slight differences in precincts between 2004 and 2000 due to redistricting.

¹⁹ Precincts include: Keams Canyon, Oraibi, Polacca, and Toreva (Navajo County) and Moenkopi (Coconino County).

²⁰ Precincts include: Baboquivari, Chukut Kuk, Gu Achi, Gu Vo, Pisinemo, San Xavier, San Lucy, Schuk Toak, and Sells (Pima County), Sif Oidak (Pinal County), and Hickiwan (Maricopa County).

²¹ Precincts include: Pee Posh, Komatke, and Lone Butte (Maricopa County) and Sacaton, Blackwater, Santan, and Casa Blanca (Pinal County).

²² Precincts include: Cibecue, Hon Dah, Whiteriver #1, and Whiteriver #2 (Navajo County), McNary (Apache County), and Canyon Day and Carrizo (Gila County).

²³ Includes precincts 11 and 16 (Graham County).

²⁴ Precincts include: Parker One and La Pera (La Paz County).

²⁵ Includes Peach Springs (Mohave County).

²⁶ Includes Sommertown (Yuma County).

²⁷ Includes Ft. McDowell (Maricopa County).

²⁸ Includes Havasupai (Coconino County).

Sum and Substance

The 2004 Native Vote effort is not the first attempt at mobilizing Native American voters in the state. In 1996, The Salt River Pima Maricopa Indian Community took a gaming initiative to the voters to allow all tribes who wanted to have a compact with the state to have one. In 2002, there were three competing Indian gaming ballot initiatives up for vote, complicating voter education and turnout. AIGA led a successful statewide effort in support of one of those initiatives, Proposition 202. This proposition set a new stage for gaming compacts between the state and Arizona tribes. Prop 202 was successfully passed in 2002 with the backing of 17 of the states Indian tribes despite

an effort by the Colorado River Indian Tribes to pass another competing gaming ballot initiative and an initiative backed by the Arizona Racing Industry to put slots in racetracks. Due to the increased turnout driven by the gaming initiatives, Native voters were also credited for helping to elect Democratic Governor Janet Napolitano. She confirmed the importance of the Native American vote by saying at the Democratic National Convention that, "Without the Native American vote I would not be standing here as Governor."²⁹ Given the close race in 2002, she wasn't exaggerating. Napolitano garnered 46 percent of the vote giving her a slim victory over Matt Salmon's 45 percent of the vote.

Minnesota

Fast Facts

Total Native American Population	81,074 (1.6%)
Duluth	2,984 (3.4%)
Minneapolis/St. Paul	32,000
Federally recognized Tribes located in state	11
Statewide Native American VAP (estimate)	54,571

Recent margins of victory:

Cass Lake Mayor Elaine Flemming (2004, over Leonard Fineday) by: 10
 Cass County, Court of Appeals 3, David Minge (2004, over Paul Elliot Ross) by: 7
 MN House of Representatives Frank Moe (2004, over Doug Fuller) by: 1,392
 MN House of Representatives Brita Sailer (2004, over Doug Lindgren) by: 336

²⁹ Martha R. Garreau. (08/05/04). Indian Representation at the DNC. Accessed 12/15/05 from: http://www.sioax.org/indian_rep_at_dnc.html

Background

Minnesota is known for having higher-than-average voter turnout in general elections and in 2000 had one of the highest voter turnout rates for the country with almost 70 percent of the VAP casting a ballot.³⁰ Since 1976, Minnesota has been a Democratic voting state in Presidential elections. In 2000, Gore carried the state with 47.91 percent of the total vote compared to Bush's 45.50 percent of the vote. The difference between the two parties was significant – 58,607 votes separated the two candidates. In that election however, 5 percent of the voters supported the Green Party candidate. Minnesota did not have a governor or senate race in 2004 although all 8 U.S. House seats were up for grabs. Given the outcome of the 2000 elections, the state was identified early on in 2004 as a battleground state and there were significant partisan and non-partisan voter mobilization efforts.

In the spring of 2004, Mille Lacs Band of Ojibwe Chief Executive Melanie Benjamin and Prairie Island Tribal Council President Doreen Hagen took the lead on the development and implementation of a statewide coordinated Native Vote effort. Judy Hanks, Project Development Coordinator for Mille Lacs, was brought on to handle the day-to-day operations of the initiative in April and to see it through Election Day. Invitations were sent to the eleven tribes within the state and to urban area organizations asking them to identify an individual who would be responsible for the local Native Vote effort and who would participate in monthly meetings.

These gatherings focused on development and implementation of the campaign and gave representatives the opportunity to share ideas and provide support for each community effort. Trainings were held on topics such as voter registration laws and tactics, election protection, list development and Get-Out-The-Vote plans.³¹ Over the course of the campaign, approximately fifteen individuals attended on a regular basis.

Increasing attention on Native American voters throughout the country raised several issues, most notably surrounding the use of tribal IDs as an acceptable form of identification for voting purposes. In Minnesota, Secretary of State Mary Kiffmeyer issued a statement indicating that tribal ID cards would only be accepted for those individuals residing on Indian reservations. This caused considerable concern given that approximately 32,000 American Indians live off-reservation in the greater St. Paul/Minneapolis area.³² NCAI and the Minnesota ACLU filed a lawsuit against the State of Minnesota for discrimination against American Indian voters by denying them the right to vote using tribal-government-issued ID cards for voting purposes. On October 29, Judge James Rosenbaum in the U.S. District Court in Minneapolis ordered the Secretary of State to accept tribal government issued ID cards for voting in the November 2nd election.³³ This was an important victory for Native Americans in the state and further galvanized Native Vote efforts underway in the state and throughout the nation.

³⁰ Minnesota Secretary of State, (n.d.), 2000 Statewide results for President and Vice-President. Accessed 12/02/04 from: <http://dnocinresults.sos.state.mn.us/2000/11/07/ElecResults.asp?M=S&R=P&P=A>

³¹ The MN Native Vote effort partnered with existing non-partisan projects in the state including the Minnesota Participation Project hosted by the MN Council of Non-profits. The MPP project provided trainers for non-partisan voting efforts throughout the state.

³² American Indian Community Profile and Data Center, (n.d.), Introductory data on American Indians. Accessed 01/04/05 from: www.aiapi.org. This number includes Native Americans who identified as "Race alone or in combination with one or more races."

³³ Case No: 04-CV-4853. Specifically, the court ordered: 1) Tribal identification cards that contain name, address, signature and photo will have the same status as Minnesota drivers license as sufficient proof of identity and residency and can be used to register to vote on election day. 2) Photographic tribal identification cards that do not contain an address (or a current address) can be used in combination with a current utility bill to register to vote on election day. 3) Tribal identification cards can be used to register to vote on Election day as described above for tribal members living on or off reservation.

Election Day in Minnesota was not without incident. On the Red Lake Indian reservation, election judges from the Ponemah precinct called in several complaints to the Native Vote Election Protection Project regarding a partisan poll watcher. This poll watcher was intimidating election judges and voters by telling the judges that they could not vouch for voters who did not have identification, pointing to those voters in line who he would be challenging for validity of their identification, peering over the shoulders of the election judges while they were working, and stating that tribal identification cards were illegal to use. As a result of his behavior, the Red Lake tribal chairman ordered the tribal police to escort the partisan poll watcher off the Reservation. The Ponemah precinct did not experience any further problems with poll watchers on Election Day following the removal of that individual.

Momentum for the Minnesota Native Vote effort also came in other forms. Peggy Flanagan, a member of the White Earth Band of Ojibwe, was running for a seat on the Minneapolis School Board and also served as the Kerry Campaign's Native American Director for Minnesota. Her political involvement both as a candidate and a campaign director made Native American political participation highly visible throughout the state. Another Native American, Elaine Flemming, made a decision late in the election cycle to run again for mayor of Cass Lake. Despite a late entry into the race, Flemming was re-elected as a write-in candidate.³⁴ While these candidates certainly did not drive voter registration or turnout throughout the state, their presence was important nonetheless in bringing attention to Native American political participation.

Results

*Statewide Minnesota Voter Turnout, 1996-2004*³⁵

Election Year	VAP	Turnout	Turnout as % of VAP
1996	3,384,000	2,211,161	65.34%
2000	3,521,000	2,458,303	69.82%
2002	3,590,000	2,282,860	63.59%
2004	3,658,000	2,842,912	77.72%

As with the previous election, overall voter turnout for the state was high. In the 2004 general elections, approximately 77 percent of the eligible voters cast a ballot.³⁶ Throughout the state, precincts in reservation areas saw increases in voter

turnout. Utilizing census data, high-density Native American precincts were identified on reservation lands and included in the analysis for the state.

³⁴ Elaine Flemming was elected as mayor of Cass Lake, Minnesota in November 2002 as a member of the Green Party. She is the first woman and the first Native American to hold this position. She is also the first Native American woman ever elected to the position of mayor in the state of Minnesota.

³⁵ Minnesota Secretary of State (n.d.). Minnesota General Election Statistics 1990-2004. Accessed 01/16/05 from: <http://www.sos.state.mn.us/election/ElectionResultStats.pdf>. Data on total registered voters was not available.

³⁶ Minnesota Secretary of State, (n.d.). 2004 Statewide results for President and Vice-President. Accessed 12/02/04 from: <http://electionresults.sos.state.mn.us/20041102/ElecRels.asp?M=S&R=ALL&P=A>

The White Earth Reservation is spread over 3 counties including Becker, Clearwater, and Mahnomon Counties. Five precincts were identified on the reservation, which, on average are 77.5 percent Native American. Voter turnout in these precincts saw increases in 2004 over 2000. Approximately 73 percent of the registered voters cast a ballot – a slight increase over 2000. Of the total VAP, over 86 percent cast a ballot. White Earth's Native effort included voter education, reminder calls in the days before the election, and rides to the polls. With total expenditures of approximately \$6,000, the effort produced an almost 3 percent increase in voter turnout. However, the increase in turnout as it relates to VAP saw the largest difference. In this election cycle, the turnout as a percentage of VAP saw a 29 percent increase in 2004 over 2000.

The Red Lake Reservation is located entirely in Beltrami County and tribal members are concentrated in 4 precincts. In this year's election, almost 80 percent of the registered voters cast a ballot – an almost a 20 percent increase over 2000. In these precincts, there were also large increases of same day registrations. In 2004, 700 voters registered on Election Day, more than doubling the number in 2000 of 309. With a modest budget of approximately \$4,200, the Red Lake Native Vote efforts investment in radio ads, direct mailings, and Election Day drivers resulted in significant increases in voter turnout. Leech Lake reservation precincts also saw increases in voter turnout. Almost 74 percent of the registered voters cast a ballot, an almost 10 percent increase over 2000. Other increases were seen on the Bois Forte and Fond du Lac reservations (see table).

General Election Voter Turnout – Minnesota Indian Reservations

Tribe	Year	Registered Voters	Turnout	Turnout as a % of those registered	Turnout as a % of VAP
White Earth ³⁷	2000	960	676	70.42 %	57.48 %
	2004	1,387	1,015	73.18 %	86.31 %
Red Lake ³⁸	2000	2,415	1,457	60.33 %	45.07 %
	2004	2,659	2,124	79.88 %	60.93 %
Bois Forte ³⁹	2000	197	106	53.81 %	N/A ⁴⁰
	2004	200	112	56.00 %	N/A
Fond du Lac ⁴¹	2000	324	233	71.92 %	81.76 %
	2004	433	358	82.69 %	N/A ⁴²
Leech Lake ⁴³	2000	1,161	741	63.82 %	85.27 %
	2004	1,180	868	73.58 %	N/A ⁴⁴

³⁷ Pine Point, White Earth, La Prairie, Little Elbow, and Twin Lakes precincts which are (on average) 77.5% Native American.

³⁸ Little Rock, Ponemah, Red Lake, and Redby precincts which are (on average) 98.83% Native American.

³⁹ Nett Lake precinct is 87.5% Native American.

⁴⁰ Turnout as a percentage of VAP was not calculated for Bois Forte because census data for the precinct was significantly smaller than the number of registered voters. Thus, the data is unreliable for this particular analysis.

⁴¹ Cloquet, Ward 5, Precinct 2 is 67.5% Native American.

⁴² Turnout as a percentage of VAP was not calculated for Fond du Lac because census data for the precinct was significantly smaller than the number of registered voters. Thus, the data is unreliable for this particular analysis.

⁴³ Bena, Pike Bay, and Inger precincts which are (on average) 72.73% Native American.

⁴⁴ Turnout as a percentage of VAP was not calculated for Leech Lake in 2004 because census data for the precinct was almost equal to the number of registered voters. In this case, researchers felt that the data was likely incorrect for this tribal community and thus did not calculate this turnout as a percentage of eligible voters.

Sum and Substance

This was the first year that a Native American voter mobilization project was implemented in the state and reservations across the state saw increases in voter turnout. The “Native Vote – MN Style” campaign was successful in engaging Native people in the elections. The leadership provided early on in the campaign played a key role in the campaign’s success. Backed by tribal leaders, the effort engaged all the states tribes. Efforts were developed and implemented by each tribal community and they provided important opportunities to engage and motivate tribal members. Native Voter surveys distributed to tribal members on the Fond du Lac reservation showed that 84 percent of the 584 respondents were aware of their communities Native Vote effort. As one respondent stated, “Native Vote is the best thing since sliced bread.”⁴⁵

While the increases are to be celebrated, it is the long-term impact of this effort that will be its

legacy. The next step for the state’s Native population is to decide collectively how this effort will be maintained and grown. In 2005, Minneapolis and St. Paul residents will choose a mayor and urban Native people must ensure that their voices are heard. With a significant number of service agencies in the Twin Cities and the vibrant Native community, developing an urban effort is an important step in building overall political power for Native people in the state.

The following year’s election includes almost all elected members of the federal and state legislatures as well as the Governor, Attorney General, and Secretary of State. Given the number of races and the issues surrounding tribal gaming that have taken on a more visible role in state politics, Native people will again be the focus of campaigns and elected officials. How the tribes and Native people will engage and how successful this engagement will be is up to them.

MONTANA

Fast Facts

Total Native American Population	66,320 (7.4%)
Billings	4,072 (4.5%)
Glacier County	8,471 (63.9%)
Big Horn County	7,859 (62%)
Federally recognized Tribes located in state	7
Statewide Native American VAP (estimate)	41,516

Recent margins of victory:

Governor Brian Schweitzer (2004, over Bob Brown) by: 19,703
 State Rep. Margaret Campbell (2004, in Roosevelt County/Fort Peck) by: 659 (815 total margin)
 Glacier County Commissioner Mike DesRosiers (2004) by: 830

⁴⁵ Native Voter survey was distributed to 587 respondents on Election Day on the Fond du Lac reservation. It was also made available to all of the states tribes to collect data from their tribal members.

Background

The election story in Montana in 2004 was the success of the Democratic Party at various state office levels at the same time President Bush scored a (predicted) overwhelming victory over Senator Kerry in the state. The apparently incongruous results made national news. “On election night, as President Bush was winning all but a half-dozen of Montana’s 56 counties, the Democrats took every statewide office but one.”⁴⁶ They gained control of the governor’s office for the first time in 20 years, the State Senate, and after a court battle, the State House.

During the long campaign Montana was not, on anyone’s scorecard, a “swing” or “battle-ground” state with regards to the Presidential race. The state was all but certain to go to President Bush and neither the national Democrats, nor any significant national independent groups invested any substantial resources in the state.

An analysis of the Native Vote, and any relevant impact it had on electoral results in Montana presents a familiar situation to one found throughout this report. The circumstances in Montana in 2004 yield important and valuable lessons, as well as tools from which others can and should gain valuable insight. At the same time, the potential portability of the Montana

experience depends entirely upon the similarity of circumstances present in other states and with other Native communities.

Native leaders and activists in Montana are quick to point out that the seeds of any electoral successes (i.e., increased participation and electoral victories) experienced in 2004 were planted with much attention and hard work years before.

If one were to look only at events that occurred in 2004, many important precursors would be missed. From Missoula, Attorney Pat Smith (Fort Peck) reports that state political redistricting was particularly beneficial to tribes by creating eight majority Native legislative districts. The redistricting was due, in part, to the successful federal voting rights litigation brought by the tribes.

Further, Montana created a redistricting commission designed to be bi-partisan with a “tiebreaker” (the other members are appointed by political leaders and are split evenly between Republicans and Democrats) appointed by the State Supreme Court. The last redistricting was performed by a commission with a Native tiebreaker. The State Supreme Court is generally viewed as friendly to Native concerns – the result of years of education, professional advocacy, and relationship building by the Native American Bar there.

⁴⁶ Montana Democrats Reflect on Success, The New York Times, 11/14/05.

⁴⁷ U.S. Census.

This report has found dramatic variations in terms of communication and interaction between the political parties, especially the Democrats, and Native American communities and tribes from state to state.⁴⁸ In Montana there has been a tradition of direct involvement by the Democratic Party, state and national, with Native communities. Former U.S. Rep. Pat Williams is credited with helping to focus Party attention on Indian Country people and issues. Presently, the state Democratic Party includes the Montana Indian Democrats Council and a newly created Montana Democratic Party Tribal Coordinator position.⁴⁹ The Council is run by Native leaders including State Rep. Carol Juneau (Mandan-Hidatsa) who is their Treasurer.

In the run up to the 2004 election an ambitious proposal was made to the state Democratic Party: \$100,000 for an all-out registration and GOTV effort to maximize the Native vote. The proposal was made by a small group of Montanan Native leaders with a track record of commitment and accomplishment. The Party, however, simply did not have the funds available. As a result any concerted, coordinated effort was going to have to be makeshift, and cheap.

An often-overlooked resource in Indian

Country is the multitude of Tribal Colleges. The colleges offer committed staff and students often ready to assist in organizing and education efforts. In Montana, Nancy Warneke-Caynor a Flathead woman, neighbor of Brian Schweitzer, and Salish Kootenai college staff member decided to make a difference in 2004.

In coordination with attorney Pat Smith and his group Nancy registered over 4,000 Native voters on all seven of the states federally recognized Reservations. With a total Native VAP of just over 40,000, Nancy's effort lead to the addition of 10 percent of all eligible Native voters.

Finally, the presence of a ballot measure, I-147 clearly added to higher than normal levels of interest in the election, especially on the Fort Belknap community. Just six years ago, Montana voters approved an initiative that was to protect the Blackfoot River from a proposed cyanide open-pit gold mine near the river's headwaters. In 2004, a Colorado mining company bankrolled a new initiative that would have removed the 1998 ban. In the end, the initiative lost 257,280 (no) to 185,974 (yes), but was an important catalyst for increasing the Native vote.

⁴⁸ Generally speaking the national Republican Party has made little effort in Native communities. While there are some exceptions (i.e. John Thune in S.D. in 2004) this has been attributed, in part, to the overwhelming support of Democratic candidates from those communities.

⁴⁹ The Council states as its purposes: "to facilitate Montana Indian Democrats to become a more effective voice within the Montana Democratic Party and to strengthen the Democratic Party's base in Indian communities through membership expansion, candidate recruitment, get-out-the-vote, voter registration, platform development, campaign assistance and other activities; to create a better understanding of and advocacy for issues of concern to Indian communities within the Democratic Party; to increase involvement and improve communication between Indian Democrats and the Party; to elect Indian Democrats (and non-Indian supportive Democrats) to local, state, and federal offices." <http://www.montanademocrats.org/organizations/indian.html>

Results

On the Montana Secretary of State web site, the state boasts of very high participation by its eligible voters. In fact it claims that for the 2000 general election it had the seventh highest participation rate in the U.S.

*Statewide Montana Voter Turnout, 1996-2004*⁵⁰

Election Year	Registered Voters	Turnout	Turnout as % of Registered Voters	Turnout as % of VAP
1996	590,751	417,232	70.6%	63.21%
2000	698,260	417,916	59.9%	62.11%
2002	624,548	340,272	54.5%	50.17%
2004	638,474	456,096	71%	66.75%

*General Election Voter Turnout-- Montana Indian Reservations*⁵¹

Tribes	Year	Registered Voters	Turnout	Turnout as a % of those registered	Turnout as a % of VAP
Blackfeet ⁵²	2004	5,336	2,760	51.73%	51.28%
Crow ⁵³	2004	4,063	2,229	54.88%	67.84%
Flathead ⁵⁴	2004	8,987	5,744	63.94%	N/A ⁵⁵
Fort Belknap ⁵⁶	2004	2,214	1,326	59.92%	80.58%
Fort Peck ⁵⁷	2004	5,335	3,008	56.40%	71.28%
Northern Cheyenne ⁵⁸	2004	2,659	1,226	46.13%	52.69%
Rocky Boy	2004	1,709	797	46.64%	56.12%

⁵⁰ Montana Secretary of State and U.S. Census.

⁵¹ Federally recognized Tribes, Native population living on Reservation; Blackfeet – 8,684, Crow – 5,275, Rocky Boy – 2,598, Flathead – 7,883, Fort Belknap – 2,809, Fort Peck – 6,577, Northern Cheyenne – 4,106.

⁵² Includes 10 precincts. Native Americans account for 86% of VAP.

⁵³ Includes 9 precincts. Native Americans account for 76.5% of VAP.

⁵⁴ Includes 11 precincts. Native Americans account for 30.1% of VAP.

⁵⁵ Turnout as a percentage of VAP was not calculated for the Flathead reservation because census data for VAP was significantly smaller than the total votes cast. Thus, the data is unreliable for this particular analysis.

⁵⁶ Includes 5 precincts. Native Americans account for 94.9% of VAP.

⁵⁷ Includes 9 precincts. Native Americans account for 63.7% of VAP.

⁵⁸ Includes 4 precincts. Native Americans account for 91.9% of VAP.

County	Year	Turnout	Increase
Glacier	2000	50%	
	2004	60%	20%
Roosevelt	2000	54%	
	2004	63%	16.6%
Big Horn	2000	58%	
	2004	59%	1.7%

The 2004 election rendered Montana alone at the top, as the state with the highest number of Native state legislators. There are now eight

members of the Montana State House and Senate who are Native American.

Gerald Pease (Crow)
Senate District 21, (Crow and Northern Cheyenne areas)
Frank Smith (Assiniboine /Sioux-Fort Peck)
Senate District 16 (Fort Belknap, Fort Peck and Rocky Boy's Reservation areas)
Joey Jayne (Navajo)
House District 15, (Blackfeet and Flathead Reservation areas)
Carol Juneau (Hidatsa Mandan)
House District 16, (Blackfeet Reservation area)

Norma Bixby (Northern Cheyenne)
House District 41, (Northern Cheyenne & Crow Reservation areas)
Veronica Small-Eastman (Crow)
House District 42, (Crow Reservation area)
Margarett Campbell (Fort Peck Assiniboine)
House District 31, (Fort Peck Reservation area)
Jonathan Windy Boy (Chippewa Cree)
House District 32, (Rocky Boy's and Fort Belknap Reservation areas)

Sum and Substance

Turnout in Native communities increased in 2004 over 2000. The amount of the increase varied from reservation to reservation, and from county to county. Interestingly, the turnout in some high-Native counties reached a level in 2004 achieved earlier in 1996 when the statewide turnout was over 70 percent.

The success stories in Montana in 2004 are important and informative. As is often the case it is particular personalities and their level of commitment that play a significant role in the success

or failure of a program designed to increase Native civic participation. In Montana, Nancy Warneke-Gaynor was such a person. Her tireless educating, organizing and mobilizing went a long way in increasing the Native vote in Montana.

Clearly the massive effort undertaken by Brian Schweitzer, from delivering beef to feed 1,700 at Fort Belknap, to visiting every reservation and speaking directly to Native communities about issues important to them, made a critical difference in convincing them to vote – many for the first time.

Also of importance in increasing Native participation were funding incentives made available to those “on the ground” working on reservations and registering voters. From the Center for Community Change, an organization which helps “low-income people, especially people of color, build powerful, effective organizations through which they can change their communities and public policies for the better,” came funding to volunteers and organizing workers to register voters and hopefully secure “pledge” cards from voters. These cards, proven to increase voting, have the signer pledge to vote on Election Day, sometimes within a very specific time frame. While difficult to assess precisely how many voters actually voted because of these efforts, reports from the field credit them with making a substantial difference.

At the end of the campaign, Diane Kerry, sister of Presidential candidate John Kerry, visited some of Montana’s Indian Reservations. While her effort appeared to be well intended, reports are she simply assumed that these communities, some

of the poorest in the country, would stage large events merely because of her stature. As it turned out, most of the communities opened up their homes and gathered together, then shared gifts and their usual hospitality with Ms. Kerry. This story was conveyed in an effort to inform candidates that while Native communities there desire and encourage them to visit (or their surrogates where necessary) those who want Native support should always be mindful that no community wants to feel as though their votes can be taken for granted.

Lastly, there were some in Montana’s Native communities who labored to accomplish the “holy grail” of Native organizing: urban Indians. Groups like the Native Development Corporation lead an effort in Billings, Montana’s largest city, to register and then get out the Native vote. In Missoula, Janet Robideau and Montana Peoples Action undertook a similar effort. Despite the extreme difficulty in tracking these voters, all evidence points to a dramatic and positive impact.

New Mexico

Fast Facts

Total Native American Population	191,475 (10.5%)
Albuquerque	22,047 (4.9%)
McKinley County	57,126 (76.4%)
Federally recognized Tribes located in state	22
Statewide Native American VAP (estimate)	128,844

Recent margins of victory:

State Representative Teresa Zanetti (2004, over Bill O’Neill) by: 818
 State Senator Shannon Robinson (2004, over Mary Gilbert) by: 1,335
 Presidential candidate Gore (2000, over Bush) by: 366

Background

In the last three presidential elections, the Democratic candidate has won the state of New Mexico. In the 2000 election, New Mexico was the closest national victory for Gore – the difference between the two candidates being only 366 votes. Given the close election in 2000 and the high incidence of voters who tend to “swing” between parties and candidates, political parties and non-partisan organizations were focused and committed in the state in 2004. President Bush made several stops in the state and other Republican leaders stumped for him over the course of the campaign. With five electoral votes up for grabs and the chance for the Republicans to take control of the state, there was an incredible amount of voter mobilization activity in 2004.

One of the biggest challenges for voter mobilization efforts designed to increase Native American participation has been identifying and targeting this constituent group. Fortunately, in New Mexico the Secretary of State’s Office efforts to increase Native American voter participation has been particularly helpful. In 1978, the Secretary of State’s Office hired Native American staff who could interpret voter and candidate information. Ten years later, as a result of a U.S. Department of Justice legal action against the state, it was required to, “extend greater election information to Native Americans based on the minority language assistance amendments to the Federal Voting Rights Act of 1965.”⁵⁹ To remedy this problem, the Native American Election Information Program (NAEIP) was established within the Bureau of Elections. The goal of the NAEIP is to provide voter education to the states’ Native American population and to ensure compliance with the minority language assistance amendments of the Federal Voting Rights Act of

1965. The office currently has two Native American Program Coordinators who provide a wide range of services to Native American voters including voter education materials on candidacy and voting requirements, the electoral process, general participation and translation services. The Program Coordinators work closely with county officials and Native American outreach workers to ensure that voters receive the information they need to make educated decisions at the polls. In addition to outreach efforts, the office also provides valuable data analysis – specifically identifying high-density Native American precincts as well as analyzing voter turnout for these precincts.

In the state, there were significant voter mobilization efforts underway in 2004. Moving America Forward (MAF), a “527” organization, undertook a statewide effort targeting Latino and Native American voters. The nine-month efforts focused on urban areas including Albuquerque, Santa Fe, and Las Cruces and a specific Native American program that included the Pueblos and the Navajo Nation. MAF trained Native Americans interested in working in tribal and urban communities early on in the campaign and worked directly with several tribes to match county voter files against tribal member enrollment lists. MAF also undertook an extensive “earned” media campaign in the state, and worked with a number of tribal newspapers, although they did not develop any Native-specific advertising. On the Navajo Nation, MAF canvassers attended various events throughout the course of the campaign to register voters and worked closely with other groups on the Navajo Nation to get voters to the polls on Election Day. Over the course of the campaign, MAF registered 27,291 new voters in the state that included approximately 7,000-8,000 Native Americans.⁶⁰

⁵⁹ Source: <http://www.sos.state.nm.us/NAEIP/history.html>

⁶⁰ Amber Canillo, Native American Outreach Coordinator, Moving America Forward

Pueblo Native Vote Efforts

There were several Pueblo Native Vote projects that consulted with Soltari Inc., a political consulting firm in Albuquerque. Keegan King, a Soltari organizer and a member of Acoma Pueblo, coordinated with San Juan, San Felipe, and Laguna Pueblos in the last election cycle. For each project, the main focus was to build long-term capacity within the community to plan and execute voter mobilization plans. Soltari trained and hired tribal members for each project and worked with respective tribes to develop all in-house voter organizations. The goal of each Voter Project was to create self-sustaining tribal-run voter programs. Field operations, mail production and delivery, and GOTV efforts were all manned by tribal members and tribal entities.

In San Juan, 2004 was the first year that they coordinated a full-scale GOTV effort. Of the Pueblos 850 tribal members, 502 cast a vote in this year's election. This year was also the first that San Felipe had a GOTV program in their community that resulted in the mobilization of almost half of their tribal membership (424 members voted out of the 875 registered members). The Laguna Voting Project set a goal of registering 500 new voters and surpassed it by garnering 541 new registrants. A total of 1,042 tribal members cast a vote in this year's election, however, due to several problems, only 955 of the total votes cast by tribal members were actually counted. There were numerous problems that were a result of mistakes made by the County Clerk in processing voter registration forms, fulfilling absentee ballot requests, and having inadequate materials for provisional voting on Election Day. As a result, some voters were registered in the wrong precinct or did not receive absentee ballots. In other cases, voters were not notified that they had registered incorrectly. As a result, 98 Laguna votes were not counted.

The three Pueblos analyzed here increased their voter participation in the 2004 General Election; however, the long-term impact of this work is

yet to be determined. With up-to-date tribal voter databases, these communities can continue to build a culture of voting and continue to encourage their own tribal members to run for political office. Already the positive effects of a sustained voter program can be seen in Laguna Pueblo where the 2005 School Board election saw a turnout double that of the 2001 election.

Urban Albuquerque Efforts

The Native American Voters Alliance (NAVA), a project of the Sacred Alliance for Grassroots Equality (SAGE) Council,⁶¹ has been working to build a politically active and educated voters alliance of Native American voters in the Albuquerque area for the past 3 years. In September, NAVA hosted a forum to introduce Congressional Candidates to the Native American community. Candidates Heather Wilson and Richard Romero sent representatives to the forum to discuss Native American issues with community members. The forum also included a listening session with Native American State Legislators and City Council members and provided an important opportunity for Native American people to share with elected officials the issues they were facing.

During this election cycle, NAVA compiled a list of over 6,000 Native American households with approximately 4,200 registered voters. This list was enhanced through collaborative efforts with other Native American organizations including Native employment centers in the Albuquerque area. NAVA matched their list to the official state voter file and determined that Native American voters were spread throughout the city in over 400 precincts. Given the dispersed population, NAVA organizers decided to focus their GOTV efforts on encouraging the use of absentee and early voting, direct mail, phone banking, visibility, and providing transportation to voting sites.

⁶¹ SAGE Council, a 501(c)(3) organization, is a people-of-color community organization building self-determination and relationships through organizing, education, and leadership development. For more information on this organization, visit: <http://www.sagecouncil.org>

In the last few weeks before the election, NAVA held two “Early Voting Day” events. The first event was held at the City Hall with guest speakers Winona LaDuke, Annishanabe activist, and City Council member Eric Griego. They held an additional event at the Southwest Indian Polytechnical Institute encouraging college students to vote early. Through this event and other voter education efforts encouraging the use of early votes, NAVA produced approximately 230 early votes. In 3 different mailings a total of 12,800 mail pieces were distributed to the list encouraging the use of absentee, or early voting, and non-partisan information on ballot initiatives and candidates. Over the course of the campaign, the designated GOTV universe received two autodialers (computer generated phone calls) and four direct contacts as well as an additional reminder live call on Election Day itself. In total, volunteers and staff made over 4,000 calls.

Albuquerque voters were also galvanized in 2004 by a street bonds proposal that included \$8.7 million for an extension through Petroglyph National Monument. The Petroglyph National Monument is a site that is still in use for religious purposes by the states’ nineteen tribes. SAGE Council and others had successfully prevented development in the Petroglyph National Monument for the past 10 years. In 2003, voters defeated a similar street bonds package that included the Paseo del Norte Extension. In both campaigns, New Mexico’s Pueblos came out against the Extension.

The Vote No on the Street Bonds campaign, a 501(c)4 organization, worked to educate voters on the proposed bond and encouraged the City of Albuquerque to look at alternatives to relieving congestion in the area. In the end, the Street Bond issue was passed by Albuquerque voters by a large



margin. In February of 2005, SAGE Council along with several other organizations, filed suit against the Mayor and the City of Albuquerque challenging the construction of the Paseo del Norte Extension through the Las Imagines Archaeological District and the Petroglyph National Monument. They have also formerly requested that the City begin its Environmental Impact Study on the extension. This long-fought battle now moves into the judicial system where SAGE Council and others hope that they will continue their success in protecting this sacred site.

NAVA plans to continue their work in building a political base in the Albuquerque metro area. NAVA organizers believe that there is significant room to catalyze political dialogue and are encouraging Native American people to engage in local, state and federal politics. While funding cycles are often based on “political seasons,” NAVA plans to work year-around within the community.

Results

*Statewide New Mexico Voter Turnout, 1996-2004*⁶²

Election Year	Registered Voters	Turnout	Turnout as % of those registered	Turnout as % of VAP
1996	837,794	566,409	67.61%	53.02% ⁶³
2000	973,533	615,607	63.25%	46.99% ⁶⁴
2002	950,743	502,230	52.83%	38.33%
2004	1,105,372	775,301	70.18%	59.17%

General Election Voter Turnout 2000, 2004 – Navajo and Apache Nations

Tribe	Year	Registered Voters	Turnout	Turnout as a % of those registered
Navajo ⁶⁵	2000	34,246	19,663	57.44%
	2004	38,184	25,433	66.61%
Jicarilla Apache ⁶⁶	2000	873	401	45.93%
	2004	943	545	57.8%
Mescalero Apache ⁶⁷	2000	823	274	33.29%
	2004	916	435	47.49%

The Native American Election Information Program (NAEIP) has identified precincts in the state with 80 percent and over Native American registered to vote. This information has made it possible to look at voter turnout for almost all of the tribes in the state.

The portion of the Navajo Nation located in New Mexico saw increases in voter turnout in 2004 over 2000. Over 66 percent of the registered voters in 62 precincts cast a ballot in this years' election. The Jicarilla Apache and Mescalero Apaches also saw increases of 11 percent and 14 percent in voter turnout respectively.

⁶² New Mexico Secretary of State and U.S. Census.

⁶³ VAP calculated using 1996 U.S. Census data.

⁶⁴ VAP for 2000, 2002, and 2004 calculated using 2000 U.S. Census data.

⁶⁵ In 2000, the precincts with Navajo populations included: Bernalillo (1), Cibola (1), McKinley (37), Sandoval (3), San Juan (19), and Socorro (1). In 2004, precincts with Navajo populations included: Bernalillo (1), Cibola (2), McKinley (36), Sandoval (3), San Juan (19), and Socorro (1).

⁶⁶ Otero County, Precinct 11.

⁶⁷ Rio Arriba County, Precinct 24.

The states Pueblos also saw increases. Sandia Pueblo had the highest voter turnout with 82 percent of those registered voters casting a ballot. Tesuque Pueblo saw a slight increase in voter turnout in 2004 over 2000 with 78 percent of voters casting a ballot compared to 73 percent in 2000. Zia Pueblo had a 76 percent turnout, a 25 percent

increase over 2000. San Ildefonso and Santa Ana Pueblos rounded out the top five performing Pueblos with 74 percent and 71 percent voter turnout of registered voters casting a ballot. Other pueblos in the state saw increases as well. See table below for more information.

General Election Voter Turnout 2000, 2004 – New Mexico Pueblos

Tribe	Year	Registered Voters	Turnout	Turnout as a % of those registered
Sandia ⁶⁸	2000	235	191	81.28%
	2004	287	237	82.58%
Tesuque ⁶⁹	2000	164	121	73.78%
	2004	188	147	78.19%
Zia ⁷⁰	2000	314	160	50.96%
	2004	376	286	76.07%
San Ildefonso ⁷¹	2000	202	130	64.36%
	2004	276	206	74.64%
Santa Ana ⁷²	2000	305	160	52.46%
	2004	338	240	71.01%
Cochiti ⁷³	2000	320	167	52.19%
	2004	394	268	68.02%
Jemez ⁷⁴	2000	1,130	656	58.05%
	2004	1,297	819	67.3%
Taos ⁷⁵	2000	457	249	54.49%
	2004	620	379	61.13%
San Juan ⁷⁶	2000	1,252	637	50.88%
	2004	852	502	58.92%
Santa Clara ⁷⁷	2000	659	331	50.23%
	2004	653	380	58.19%
Zuni ⁷⁸	2000	2,795	1,030	36.85%
	2004	3,683	1,979	53.73%
Laguna ⁷⁹	2000	1,700	839	49.35%
	2004	1,980	1,043	52.68%
San Felipe ⁸⁰	2000	745	213	28.59%
	2004	874	424	48.51%
Isleta ⁸¹	2000	1,308	576	44.04%
	2004	1,477	713	48.27%
Acoma ⁸²	2000	752	307	40.82%
	2004	899	427	47.5%
Santo Domingo ⁸³	2000	445	171	38.43%
	2004	747	301	40.29%

⁶⁸ Sandoval County, Precinct 29.

⁶⁹ Santa Fe County, Precinct 6.

⁷⁰ Sandoval County, Precinct 14.

⁷¹ Santa Fe County, Precinct 40.

⁷² Sandoval County, Precinct 19.

⁷³ Sandoval County, Precinct 8.

⁷⁴ Sandoval County, Precinct, 15.

⁷⁵ Taos County, Precinct 13.

⁷⁶ Rio Arriba County, Precinct 41.

⁷⁷ Rio Arriba County, Precinct 7.

⁷⁸ McKinley County, Precincts 27-30.

⁷⁹ Cibola County, Precincts 18-23.

⁸⁰ Sandoval County, Precinct 9.

⁸¹ Bernalillo County, Precinct 93,

and Valencia County, Precinct 13.

⁸² Cibola County, Precincts 17.

⁸³ Sandoval County, Precinct 20.

Sum and Substance

Native Americans make up almost 10 percent of the total statewide population in New Mexico. As such, they can and should play an important role in the states electoral processes. The NAEIP is key in contributing to the growth of Native Americans in the electoral process statewide. Program Coordinators provide timely and valuable information to Native American voters and because they are Native themselves, have an ability to understand these communities like no other. Additionally, their analysis of high-density Native American precincts and voter turnout for these precincts provides important information for tribes to gauge and understand their communities' voting potential. This office is an asset to the states' Native American population and is a model for other states and Tribes to consider as they explore ways in which to increase Native American voter participation.

Like other states, there is a considerable amount of Native people residing in urban areas. In Albuquerque, SAGE Council's NAVA project has worked tirelessly to identify and engage Native voters. With an estimated population in Albuquerque of approximately 22,000,⁸⁴ Native people could be decisive voters in local elections. This past election cycle resulted in the identification of 4,200 Native voters – not a small feat. With an upcoming mayoral race in the fall of 2005,

NAVA can play an important role in educating and mobilizing urban voters. While NAVA is an important project of SAGE Council, it is not the only work that they do. SAGE Council has led the fight against development in the Petroglyph National Monument and worked on a variety of other environmental justice issues. Their work and the organizers individual commitment have made this organization an indispensable asset in the community.

All of the Tribes analyzed in this particular report saw increases in voter turnout in 2004 over 2000. Some communities, like the Sandia Pueblo, had turnout rates above 80 percent. In precincts where Native people are the majority, their ability to swing a local election is a reality. Some of the pueblos, including San Juan, San Felipe, and Laguna have already taken important steps in building a culture of voting in their communities. In addition to encouraging tribal members to vote, there is also an emphasis to have qualified tribal members run for political office. These two aspects are critical in building long-term political power in the state. The impact of Native American political participation in New Mexico should be on the radar of those interested in Native political participation as a whole. With the NAEIPs ability to provide both identification and turnout data for high-density Native precincts, it will also be one of the easiest states to follow.

⁸⁴ U.S. Census

South Dakota

Fast Facts

Total Native American Population	68,281 (9.0%)
Shannon County	11,850 (95.1%)
Todd County	7,861 (86.9%)
Rapid City	7,142 (12.0%)
Federally recognized Tribes located in state	9
Statewide Native American VAP (estimate)	38,920

Recent margins of victory:

U.S. Senator Tim Johnson (2002, over John Thune) by: 524
 U.S. Rep. Stephanie Herseth (2004, special election) by: 3,005
 John Thune (2004, over U.S. Senator Tom Daschlee) by: 4,508
 State Senator Theresa Two Bulls, Oglala Sioux (2004) by: 3,096

Background

To say merely that South Dakota was the epicenter of Native voting efforts in 2004 is to risk understating the significance of the election there, the spectacular national attention it brought, and the intense activity which took place in the state. The resources committed to South Dakota would make the casual observer believe that the Presidential race was likely to be decided by South Dakota's 394,930 voters. In fact it was because of U.S. Senate race between then-Minority Leader U.S. Senator Tom Daschle and former U.S. Rep. John Thune.

Even though the state was never "in play" in the Presidential race, Bush won by more than 20 percent, the recent impact of Native voters on the 2002 general election and the 2004 special election, and the tremendous outside influence and attention on the Daschle-Thune race meant that 2004 was going to again draw a spotlight on Native voting and its importance in particular races.

The importance of Indian voters was certainly not lost on either of the candidates, both of whom made numerous visits to reservations where they attended pow-wows and meetings with tribal leaders, in an attempt to influence Native voters. Because of the recent history of Native voters being the difference in both the Johnson and Herseth victories, Daschle clearly wanted to make sure that turnout was as high as possible given the overwhelming Democratic support of the states Native voters. Thune on the other hand, fearing a repeat of 2002 where Native voters voted 9 to 1 Democratic, worked directly and through surrogates to win over as many Native voters as possible. At the same time, sources report that numerous Republican leaders, including some with close ties to Indian Country were making clear to tribal leaders and tribal advocates their strong desire to secure a Thune victory.

But after months of campaigning, and a total of \$36.9 million spent by Daschle and Thune directly, only Daschle was able to claim the endorsement of all nine tribes. "Tribal leaders praised the Democratic candidate for his commitment to Indian issues, particularly his attempts to increase the budget for the Indian Health Service. They said he would continue to advocate for tribes in the state."⁸⁵

A plethora of organizations, both non-partisan/non-profit, and political (i.e. 501(c)4's and "527"s) worked in South Dakota directly and indirectly to increase the Native Vote. There were three tribal organizations, all non-partisan, in particular which undertook leading roles in tribal voter registration, education and mobilization. United Sioux Tribes' (UST) Native Vote Project played a significant role in general election registration and mobilization. The Four Directions Committee took the lead in early registration and mobilization during the primary and special congressional election in June. They later became involved in exposing and opposing alleged voter suppression activities and created outposts at Pine Ridge and Rosebud.

The Northern Plains Tribal Voter Education Project worked closely with both UST and Four Directions, and assisted both in coordinating state-

wide tribal registration and mobilization efforts. Northern Plains' sponsor, the Rural Ethnic Institute, also coordinated its efforts with sixteen tribal colleges in Montana, North Dakota and South Dakota.⁸⁶

On the Pine Ridge Reservation, for only the second election cycle, the Tribe held its election in alignment with the local, state and federal elections. The election for President between Russell Means and Cecilia Fire Thunder was the marquis event and generated much attention from the Tribal membership. At some of the polling places on the Reservation, Tribal members could vote for Tribal candidates running for Tribal offices at the same location as they could also vote for their local, state and federal candidates and ballot measures. Some villages however had separate polling places where voters needed to exit their Tribal polling place and enter a different location in order to vote in the non-Indian elections.

⁸⁵ <http://www.indianz.com/News/2004/004933.asp>

⁸⁶ Special thanks to Tom Katus for this information.

Results

Statewide Registered voters	Turnout ⁸⁷				VAP ⁸⁸	Turnout as % of VAP			
502,261	394,930 (78.63%)				559,474	70.62%			
	1988	1990	1992	1994	1996	1998	2000	2002	2004
Turnout % of VAP	61.7%	52.2%	67.2%	62.4%	62.1%	49.5%	58.3%	61.4%	70.62%
Turnout % of Reg.	71.1%	61.8%	75.0%	73.7%	71.6%	58.8%	68.4%	71.5%	78.6%

Initial reports from South Dakota after the election were upbeat and positive. Native turnout was up, virtually everywhere, and tremendous progress was made raising the level of participation to, at least, that of the population at-large.

When reviewing turnout data from the four counties with at least 74 percent Native population, the average turnout of registered voters was 65.2 percent. While some have reported a higher Indian Country turnout rate than this using county turnout numbers, the other counties have such a significantly lower Native population, as a percentage of the total, so as to render the data of limited value.

County	Votes Cast	Turnout of registered voters
Buffalo	903	76%
Dewey	2,683	63%
Shannon	4,549	57%
Todd	3,691	65%
Avg.		65.2%

Still below the total state turnout rate, Native voters are nevertheless increasing their participation rates at a far faster pace than the state's general population. In 2000, also a Presidential year, the four counties listed above had a turnout percentage (as an average) of 42.7 percent. In the 2004 election, these very same counties saw their turnout, driven almost exclusively by Native voters, grow by an astounding 22.8 percent, while the state at-large, and saw its turnout grow by only 9.8 percent.

⁸⁷ South Dakota does not include "inactive" status registered voters in calculating turnout percentages. Inactive registered voters are in fact registered voters however and could have voted in 2004.

⁸⁸ US Census 2003 estimates.

In order to more fully analyze Native voting patterns, an examination of results at the precinct level must occur. It is only at that level, and only in precincts where Natives constitute as close to the complete voting pool as possible, that an accurate assessment can truly be made.

Using data from the Census which sets forth both a Native percentage of the total precinct population as well as a total and percentage for Native VAP, the dramatic increase in Native participation becomes even clearer. Three precincts in Shannon County, on the Pine Ridge Reservation illustrate this point quite clearly.

Turnout percentage on three Pine Ridge/Shannon County precincts

	2000	2002	2004
Kyle	35.9%	47.9%	54.6%
Oglala	26.4%	42.1%	50.6%
Pine Ridge #1	40.5%	44.1%	54.6%

The data included here is put forth for purposes of examining Native turnout as a percentage of registered voters and VAP at the precinct level in order to gain a clearer perspective on Native voting patterns. It must be understood however that these numbers show a wide variation as often times the number of registered voters within a particular precinct, as reported by the county auditor, are actually higher than the VAP as determined by the Census.

These caveats notwithstanding, it is this analysis which both informs best as to actual turnout numbers achieved, and at the same time, identifies where gains remain to be made.

Precincts in County	Total Pop. (in precincts used)	VAP ⁸⁹ (in precincts used)	Turnout ⁹⁰ (in precincts used)	Turnout (as a % of native VAP)
Dewey	4,134 ⁹¹	2,434	1,939	79.6%
Buffalo	1,578 ⁹²	945	613	64.9%
Todd	6,224 ⁹³	3,347	1,293	36.6%
Shannon	12,466 ⁹⁴	6,819	4,549	66.71%

⁸⁹ US Census 2000.

⁹⁰ S.D. Secretary of State and County Auditors 2004.

⁹¹ Using 9 precincts which are all over 83% Native American.

⁹² Using District 3-Victory precinct which includes more than 75% of the total county population and is 94.6% Native American.

⁹³ Using 5 precincts all over 93% Native American.

⁹⁴ Total county which is 95.1% Native American.

On the Pine Ridge Reservation, in Precincts 1-3, there was a turnout in the Tribal election of 2,365 voters. At the same time, and at essentially the same place, the turnout for the non-Tribal Local, State and Federal general election was just 1,721. In addition, Tribal membership total turnout for the election of Tribal President was 4,728. The geographic boundary for this election includes

primarily, but is not limited to Shannon County, which had a general election turnout of 4,549. Adding that together with the 5 additional precincts in Jackson and Bennett Counties where approximately 625 Native voters voted in the general election, the total Oglala Sioux general election turnout appears to be 5,174.

2004

	Herseth	Diedrich
TOTALS 389,468	207,837 (53.36%)	178,823 (45.91%)
SHANNON	3,960 (85.6%)	346 (14.1%)
TODD	2,878 (79.2%)	674 (20.8%)
BUFFALO	702 (80.6%)	151 (18.4%)
DEWEY	1,941 (74.9%)	606 (25%)

	Daschle	Thune
TOTALS 391,188	193,340 (49.42%)	197,848 (50.58%)
SHANNON	3,887 (80.6%)	564 (19.4%)
TODD	2,885 (78.9%)	776 (21.1%)
BUFFALO	713 (80.9%)	168 (19.1%)
DEWEY	1,920 (73.2%)	705 (26.8%)

Sum and Substance

It is impossible to overstate the significance of the impact of the U.S. Senate race had on the entire election, not only in Indian Country within South Dakota, but the entire state. The intense efforts on the part of Native leaders and activists to increase Native participation occurred along side, and concurrently with the activities of the candidates' campaigns, the political party campaigns, the independent group campaigns and the various and many non-partisan efforts.

While some might argue the increase in Native participation in 2004 is so inextricably intertwined

with the saturation the U.S. Senate race brought upon the state, in truth only the next election cycle (and, actually the next Presidential election) will allow us to know whether the increases seen this year are a trend or an aberration. However, given the actual trending apparent when considering the last few cycles, this report concludes that at worst the increases this year were catalyzed in large part by the Daschle-Thune race and the Presidential race, but at best the trend will continue from the increased rates of 2004 and built from there for the next election.

While Cheyenne River also has aligned their Tribal elections with state elections, not all Tribes in South Dakota have done so. Further, as the results show, even though alignment does likely increase

turnout in non-Tribal elections, issues such as separate locations will continue to be impediments to maximizing Native participation in local, state and federal elections.

Washington

Fast Facts

Total Native American Population	158,970 (2.7%)
Seattle	11,869 (2.1%)
King County	33,022 (1.9%)
Whatcom County	6,420 (3.8%)
Federally recognized Tribes located in state	29
Statewide Native American VAP (estimate)	103,330

Recent margins of victory:

U.S. Senator Cantwell (2000, over Slade Gorton) by: 2,229
 County Commissioner 2001 Whatcom County/Lummi Nation) by: 1,952
 Justice Fairhurst (2002 over Jim Johnson) State Supreme Court by: 3,377
 Governor Gregoire (2004 over Dino Rossi) by: 129

Background

Since the 2000 general election in Washington state, where Maria Cantwell defeated U.S. Senator Slade Gorton and the dramatic increase in participation by Native Americans was determined to play a critical role in the outcome, much attention has been placed on the state's Native population at election time.

In 2001 a County Commissioner, with a long and "distinguished" career fighting Indian tribes was defeated after a coordinated effort that was lead by the Lummi Nation. Then, in 2002 a Native

lead statewide independent expenditure campaign was cited as the reason for the defeat of a renowned anti-Indian lawyer in his bid for a seat on the State Supreme Court.

The 2004 election year began on a very different note. The state was not considered a "swing" state in terms of the Presidential race, due to its strong democratic majority, and so was not a focus of the national political parties. As a result, Indian Country within Washington state was not the scene of any extraordinary outside influence, resources or concentrated effort.

It was still, however, a Presidential election year which also included the election of one U.S. Senator, the Governor and all other statewide officers, the entire state U.S. House delegation as well as most of the State Legislature.

The Governor's race was especially interesting in 2004. The Republican, former State Senator Dino Rossi was a conservative who happened to be part Tlingit (Alaska) and had a 94.4 percent voting record on Native issues while in the State Senate (see <http://www.first-americans.net/senate.pdf>.) His opponent was the heavily favored Democratic state Attorney General who had spoke often of her commitment to natural resource protection and other issues which appealed to some Native voters.

Also to be considered by the voters in this election was a ballot measure, Initiative 892, entitled "Authorizing Additional Electronic Scratch Ticket Machines." According to the ballot measure description furnished by the Washington state Secretary of State's office, "this measure would authorize licensed non-tribal gambling establishments to operate the same type and number of machines as tribal governments, with a portion of tax revenue generated used to reduce state property taxes."

The Washington Indian Gaming Association began its opposition efforts early in 2004, creating a campaign structure and raising awareness and money from tribes within the state. The measure was put forth by the non-Indian gaming industry and spearheaded by an experienced campaign coordinator known more for his anti-tax crusades than any particular commitment to gaming issues. If the initiative were to pass, non-Indian gaming would have been able to spread through the use

of slot-style machines, and, the current gaming tribes believed, pose a serious threat to the critically important economic gains made by tribes in the state.

Also on the ballot in 2004 was the very same Jim Johnson who lost his last race for the State Supreme Court, and credited the Native lead independent expenditure campaign for his defeat, in 2002. The race last year was for another open seat on the court. While his opponent this time was thought to be a very formidable candidate – Mary Kay Becker, a highly regarded sitting lower court judge – many tribal advocates and activists argued that tribal leaders should pay close attention to the race because of the perceived potential threat to tribal sovereignty and a wide range of issues important to Native communities.

While a number of tribes did contribute directly to Becker, their contributions totaled about \$14,300, and little attention was paid within tribal communities. It must be noted that supreme court races generally elicit little public interest and even though the political donor class has begun to pay much closer attention to these races, the general public remains uneducated, and apparently uninterested in these races.

At the same time, the No on I-892 campaign raised \$6.6 million, the vast majority of which came from tribes. More importantly, for purposes of this report, the tribes worked to educate their members about the initiative and the importance of voting in the election to say "no" on the measure. It was difficult to travel through Indian Country and not see multiple signs advocating a "no" vote on I-892.

It was within this electoral environment that high hopes existed for increased Native voting participation. Results from 2000 and 2002, chronicled in the report “The Emerging Role of Native Americans in the Electoral Process” (<http://www.first-americans.net/ElectorP.pdf>), were also reason for optimism because Natives in Washington state had achieved some of the highest participation rates anywhere in Indian Country.

Individual tribes within Washington state conducted a wide variety of activities designed to increase voter participation. Tribes used myriad tactics including using volunteers to canvass Reservations. At the Lummi Nation, another organizing tool was used: they put on a “Rock the Rez” voting campaign with the stated goal of registering 1,000 new tribal voters. At Lummi and many other Reservations, community leaders and activists provided rides to polling places and called tribal members on Election Day to remind them to get out and vote.

Results

The results from 2004 indicate that, on the whole, total Native participation was up from 2000 and 2002. This trend has sustained a rate of increase seen in the last two federal election cycles.

The results indicate however that the increases were not likely due to any specific coordinated effort to raise Native participation and were more likely due to a combination of circumstances including a close national presidential election, the expanded gaming initiative and the efforts of a select group of Native leaders and activists.

Unlike some other western states with a more substantial Native population, there are no Washington counties with a Native population as a percentage of the total population that rises to even the double digits. To analyze Native registration and turnout a precinct by precinct survey must occur added together with anecdotal information gathered from those Tribes which gather voting information.

In a Presidential election year in Washington, general turnout is typically between 12 percent and 17 percent higher than during “off year” elections. This is likely a primary reason for the increase in Native participation in 2004. Upon review of Native registration and turnout, as compared to statewide registration and turnout, the increases in 2004, over the last two Presidential elections, was roughly the same: approximately 10 percent overall.

Statewide Washington Voter Turnout, 1996-2004 ⁹⁵

Election Year	Registered Voters	Turnout	Turnout as % of those registered	Turnout as % of VAP
1996	3,078,208	2,293,895	74.52%	55.65%
2000	3,335,714	2,517,028	75.46%	57.62%
2002	3,209,648	1,808,720	56.35%	39.87%
2004	3,508,208	2,883,499	82.2%	63.3%

⁹⁵ Washington Secretary of State.

When examining Native participation rates over the last few (federal) election cycles it becomes clear that the momentum begun in 2000 has continued, albeit at a pace of wide variation depending upon the Tribal community. While I-892 was expected to be a critical catalyst to increase Native registration and turnout, it appears to have added only marginally to the participation rates.

Another catalyst was thought to be State Rep. John McCoy (Tulalip) who was on the ballot seeking reelection to his state house seat. While Rep. McCoy received attention, and contributions from Tribes across the country, his presence on the ballot appears to have had only a marginal effect at Tulalip precincts. Writing in the *Seattle Times* on the weekend after the election, reporter Emily Heffter found that “[T]hrough McCoy’s victory margin over his Republican challenger was larger than in 2002, he didn’t do as well on the reserva-

tion, where he is a leader of the Tulalip Tribes.” The article went on to state that McCoy’s opponent, Kim Halvorson said that while she decided to not campaign on the Reservation, “because a Republican poll found her ahead by a 2-1 margin,” she agreed with McCoy that he had probably benefited to some degree from tribal members who went to the polls to vote against Initiative 892. “A lot of [tribal members] weren’t going to get out of bed to vote for McCoy, but they did get out and vote against 892,” Halvorson said. “And while they were there, they voted for McCoy.” Tracking the registration and turnout against prior elections and factoring in the normal “bump” for a close Presidential race, it does not appear that either McCoy or I-892 had a significant impact. In addition, turnout in Snohomish County, as a percentage of those registered was 84.3 percent.

General Election Voter Turnout 1996, 2000, 2004 – Washington Indian Reservations

Reservation	Year	Registered Voters	Turnout	Turnout as a % of those registered	Turnout as a % of VAP ⁹⁶
Lummi ⁹⁷	1996	1,435	868	60.5%	
	2000	1,564	968	61.9%	
	2004	1,613	1,045	71%	57.27%
Tulalip ⁹⁸	1996				
	2000	930	620	66.7%	65.4%
	2004	1,022	734	70.15%	
Colville ⁹⁹	1996	716	401	56.02%	
	2000	721 ¹⁰⁰	398	55.2%	
	2004	874 ¹⁰¹	584	66.84%	36.87%
Quinalt ¹⁰²	1996	398	297	74.6%	
	2000	424	313	73.8%	
	2004	435	221	50.8%	44.2%

⁹⁶ Estimate based on 2000 Census

⁹⁷ Lummi North and Lummi South which are (on average) 72.45% Native American.

⁹⁸ Tulalip 2 and Coho precincts which are (on average) 55.5% Native American.

⁹⁹ Columbia, Nespelem (City and Rural), Disautel and Mission precincts which are (on average) 81.2% Native American.

¹⁰⁰ Excluding Columbia precinct. Data on registered voters was not available for 2004.

¹⁰¹ Four of these five precincts have changed, minimally, from 2000.

¹⁰² Taholah precinct which is 91.1% Native American.

Election Day results in Washington gained national attention because of the closeness and subsequent recounts and legal action regarding the Governor's race. The results on I-892 results were quick and unambiguous with only 1,069,414 or 38.45 percent voting yes while 1,711,785 or 61.54 percent rejected the measure. Interestingly 102,300 fewer voters voted at all on that measure than did for the "top of the ticket" races.

Sum and Substance

The authors are aware of no public opinion surveying -- neither exit polls nor any other scientifically gathered data from Native Americans in Washington who are either eligible or actually registered and voting. Given that absence of information available, conclusions drawn about the reasons for particular voting (and non-voting) patterns are of course subjective and anecdotal.

That notwithstanding, some axioms are put forth here based upon the authors extensive experience. First, the Presidential race didn't speak to Natives in Washington as a distinct community. Neither of the candidates visited the state for anything significant other than the typical Seattle fundraisers, nor did they appear to undertake any particular outreach to Native communities. With that said Senator Kerry did assemble a Native Steering Committee which included Tribal Leaders from the state. While some Kerry signs did appear on some Reservations there was little evidence that this was as a result of anything more than a strong Democratic leaning and there was little discernible "grassroots" excitement apparent within Native communities.

Second, the expanded gaming initiative clearly was the focus of energy, money and other resources of Tribal Leaders throughout the state. Again though, while many "No on I-892" signs appeared throughout Indian Country there was little evidence of a groundswell of grassroots interest or activism. Again, there is strong evidence of Native opposition to the measure, just little "coattail" effect in terms of dramatically increasing voting participation.

Third, the marquis races on the top of the ticket (i.e. U.S. Senator, Governor) did not attract unusually high attention in Indian Country. Attorney General (now Governor) Gregoire had a mixed record on Native issues, opposing tribes on shell fishing and other natural resource issues. Dino Rossi, though part Native and with a relatively strong record while in the legislature was still a very conservative candidate and strong democratic allegiances might account for his tepid support in Indian Country. Further, neither candidate appeared to speak directly to tribal communities and focused their attention to Natives primarily on fundraising among the Tribal Leaders, especially those from successful gaming tribes.

Fourth, involvement from national groups was not present to any significant degree in Washington. Whether that would have made any appreciable impact is, of course, impossible to predict. Washington tribes began to establish a reputation around the country as active and involved in the electoral process beginning with the 2000 election. It is entirely possible that Indian Country attention outside Washington state was better spent in those state with a less distinguished record of electoral involvement.

With all that, the numbers in Washington state show a steady improvement and put Washington Native communities closer to general population participation rates than almost anywhere in the country. At this point, it is clear that Native voters, like all other voters will be more likely to participate in the process when they feel either threatened directly (i.e. Slade Gorton) or possess the opportunity to elect a Native candidate, or non-Native candidate with a strong commitment to issues important to them.

A new group was created in Seattle in 2004 called the Native Action Network (NAN). The purpose of the organization is to “serve as a communication link for Native people in the Puget

sound region by sharing information, discussing issues, linking people to community networking opportunities, and highlighting the great work that individuals and grassroots organizations are doing.” Used as a communication tool for Native communities, their website offered information about the election, including the importance of registering and voting in November. Focused on “Urban Indians,” the group appears to have started to make headway towards identifying, educating and organizing, this very large block of Native Americans for purposes of increasing their civic participation. While still new and reliant totally on volunteers, NAN is poised to play a critical role in this vital puzzle piece.

Wisconsin

Fast Facts

Total Native American Population	69,386 (1.3%)
Menominee County	4,010 (87.9%)
Milwaukee	9,116 (1.5%)
Green Bay	4,241 (4.1%)
Federally recognized Tribes located in state	11
Statewide Native American VAP (estimate)	43,089

Recent margins of victory:

Presidential candidate Kerry (2004, over Bush) by: 11,384
 36th Assembly District Representative Jeff Mursau (2004 over Jim Crawford, Forest County Potawatomi) by: 3,511
 Presidential candidate Gore (2000, over Bush) by: 5,708

Background

Wisconsin was identified early as a 2004 battleground state. In 2000, Gore carried the state by 5,708 votes. In addition to the presidential race, Russ Feingold was seeking his third term as senator and all eight U.S. House seats were up for grabs. Going into November 2, the house seats were split evenly between the Republicans and Democrats. Given the outcome of 2000 election and the chance for either party to tip the political balance, both Republicans and Democrats expended significant resources in the state.

Wisconsin is the home to eleven federally recognized tribes and Native Americans make up approximately 69,386 or 1.3 percent of the total state population.¹⁰³ While the overall statewide percentage is small, there are dense concentrations of the Native American population. For instance, in the case of the Menominee Nation, the entire reservation is located within one county. To calculate the Native American voter turnout for the state, population density was determined at the ward level utilizing ethnic breakdown data provided by the state. When possible, VAP data was obtained from tribal enrollment offices. For those wards that are identified as predominately Native American, overall voter turnout increased in 2004 over 2000. Many of the wards located on reservation land included sizable populations of non-Natives making it difficult to determine precisely what percentage the increase in turnout can be attributed solely to Native American people.

There were a few non-partisan Native Vote

efforts conducted in Wisconsin in 2004. The Oneida Nation, located near Green Bay, hosted a non-partisan Native Vote training in August that drew a small group of interested individuals. The majority of the Native American voter mobilization efforts were conducted by partisan organizations. For example, the Wisconsin Democratic Coordinating Committee (DNC), under the direction of Gwen Carr¹⁰⁴, employed several individuals to organize reservation areas, including the Menominee and Oneida Nations. The DNC efforts focused primarily on reservation areas.

The 2004 American Indian Coordinated Campaign put approximately \$65,000 into the state of Wisconsin's Indian GOTV program. The campaign brought approximately twenty-five DNC field organizers into the state to specifically work on each reservation. In addition to these organizers, the campaign identified and employed a number of GOTV coordinators on each reservation. Many of the individuals working on the reservations had previous experience in campaigns, participated in the Wisconsin American Indian Caucus, and/or had attended a Native Vote political training. The campaign made efforts to pair up experienced organizers with less experienced individuals with the long-term goal of creating a pool of skilled campaign workers for future efforts. Most of the reservation coordinators were aware of the DNC field organizers arrival and purpose and worked well with them in creating walk lists, phone banks and the DNC voter ID card program.

¹⁰³ U.S. Census, 2000.

¹⁰⁴ Gwen Carr, Cayuga, served as the Political Director for American Indians with the Democratic National Committee 1996-1999 and current serves as the founding Chair for the Wisconsin Democratic Party Native American Caucus.

The American Indian Coordinated Campaign pursued multiple avenues to ensure turnout on the reservations. Gwen Carr worked with many of the tribes in obtaining information to create a statewide American Indian voter file. Menominee Nation had all their members on a voter file and utilized it for literature distribution, phone banking, and GOTV activities. The campaign media efforts included earned media in the local urban Indian community newspapers in Milwaukee, an add share program with the DNC for reservation and statewide Indian newspapers, and made available free, non-partisan GOTV ads

for tribal radio stations. Education outreach was extensive and included presentations to young first time and potential voters at on and off reservation schools and the distribution of down ticket Indian literature at gatherings, including pow-wows, rallies and other public events. Finally, GOTV materials were made available for tribal efforts to distribute which included t-shirts, posters, and buttons. As a result of these efforts, the American Indian Coordinated Campaign played a key role in mobilizing Native American voters in the state.

Results

Statewide Wisconsin Voter Turnout, 2000-2004¹⁰⁵

Election Year	VAP	Turnout	Turnout as % of VAP
2000	3,994,919	2,598,607	65.06%
2002	3,994,919	1,775,349	44.44%
2004	3,990,696 ¹⁰⁶	2,997,007	75.13%

Throughout the state, overall voter participation for Native Americans/ Alaska Natives residing on reservations increased. On the Bad River Band Of Lake Superior Tribe of Chippewa Indians, voter turnout as a percentage of eligible voters saw an increase from 63.44 percent in 2000 to 89.35 percent in 2004. In this particular ward, Native Americans make up 81 percent of the total VAP. The Red Cliff Band of Lake Superior Chippewa Indians reservation, also located in northern Wisconsin, also saw increases in voter turnout from 2000 to 2004. In the Russell T1 – T2 wards,

Native Americans account for 69 percent of the total VAP. Voter turnout increased in 2004 over previous years. In 2004, 567 individuals cast a ballot compared to 341 in 2000.¹⁰⁷ The Stockbridge-Munsee Indian Nation also saw a voter turnout increase in the Bartleme ward where Native Americans make up 74 percent of the VAP. Voter turnout in this ward increased from 241 voters in the 2000 elections to 290 voters in the 2004 election. Other reservations saw increases in voter turnout in 2004. Please see table for results.

¹⁰⁵ Wisconsin Secretary of State and U.S. Census. Data on total registered voters and voter turnout information for 1996 was not available at time of publication.

¹⁰⁶ U.S. Census, 2003 estimated.

¹⁰⁷ Researchers did not calculate turnout as a percentage of VAP because census data for the precinct was smaller than the number of voters who cast a ballot. Thus, the data is unreliable for this particular analysis.

The Menominee Indian Tribe of Wisconsin is located almost entirely within the county of Menominee in Central Wisconsin, providing a unique opportunity to analyze Native American voter turnout. The U.S. Census Bureau estimates that there is total population of 4,562 within the county of which 85 percent are Native American. The VAP population of Native Americans accounts

for 80 percent of the total VAP, or 2,241 Native Americans. In the 2004 general elections, 1,738 individuals voted, compared to 1,233 voters in the 2000 general elections. This was an increase of 141 percent between these two election cycles.

General Election Voter Turnout 2000, 2004 – Wisconsin Indian Reservations¹⁰⁸

Tribe	Year	AI/AN VAP	Turnout	Turnout as a % % of VAP
Red Cliff ¹⁰⁹	2000	370	341	92.16 %
	2004	370	567	N/A ¹¹⁰
Menominee ¹¹¹	2000	2,241	1,233	55.02%
	2004	2,241	1,738	77.56%
Lac Courte Oreilles ¹¹²	2000	167	115	68.87%
	2004	167	162	97.01%
Ho Chunk ¹¹³	2000	172	114	66.28%
	2004	172	143	83.15%
Bad River ¹¹⁴	2000	629	399	63.44%
	2004	629	562	89.35%
Stockbridge Munsee ¹¹⁵	2000	352	241	68.47%
	2004	352	390	N/A ¹¹⁶

Sum and Substance

To extrapolate from the 2000-2004 election cycle voter increase percentages, the single underlying cause for the increase is not only dollars spent for field per vote in Native communities' but also the increase in consistent message development and delivery each Indian community received throughout the "off cycle" years. While the assumption can be made that voter turnout is higher in Presidential cycles, the upcoming

Mayoral, Legislative and Gubernatorial races in 2005-2006 are as important, if not more so to the Tribes and Indian communities than the Presidential cycle. Field, message, and organizing built on the newly existing infrastructure created in 2004 and training, can achieve equally significant increases in Indian voter turnout in these races if they are applied with as much vigor and funding as the 2004 cycle.

¹⁰⁸ Many municipalities in Wisconsin do not require registration. Individuals can show up at their polling place with proper identification on Election Day and have their names recorded by the election inspectors (poll workers). As a result, the Wisconsin Secretary of State and County Elections offices do not keep data on the total registered voters at the ward level. Thus, turnout as a percentage of registered voters cannot be calculated for the tribes in the state.

¹⁰⁹ Russell – T1 and Russell – T2 which are (on average) 76.48% Native American.

¹¹⁰ Turnout as a percentage of VAP was not calculated for Red Cliff because census data for the precinct was smaller than the number of voters who cast a vote. Thus, the data is unreliable for this particular analysis.

¹¹¹ Menominee T1 – T5 which are (on average) 85.40% Native American.

¹¹² Couderay – T1 and Couderay – T2 wards which are (on average) 57.14% Native American. Other wards in which tribal members vote were excluded due to low-density Native populations at the ward level (this includes Bass Lake T1 – T4 as well as Hayward T1 – T6). Further, County Elections offices do not keep voter turnout information at the ward level which further hinders the analysis.

¹¹³ Komensky – T1 which is 66.88% Native American. Other wards including Brockway T1 – T6 were excluded due to low-density Native populations at the ward level.

¹¹⁴ Sanborn – T1 and Sanborn – T2 which are (on average) 83.57% Native American.

¹¹⁵ Bartelme – T1 which is 74.71% Native American. The Red Springs – T1 ward was excluded in the analysis due to the low-density Native American population (Red Springs – T1 ward is 51.57% Native American).

¹¹⁶ Turnout as a percentage of VAP was not calculated for Stockbridge Munsee because the census data for the precinct was smaller than the number of voters who cast a vote. Thus, the data is unreliable for this particular analysis.

CONCLUSION

A new energy and cultural shift is occurring throughout Indian Country. In Idaho, Coeur D'Alene Tribal Chairman Ernie Stensgar stated his Tribes goal of "nothing less than 100 percent participation." Mille Lacs Band of Ojibwe Chief Executive Melanie Benjamin and Prairie Island Council President Doreen Hagen took the lead on the development and implementation of a coordinated statewide effort in Minnesota. Native participation in non-Native elections is starting to be viewed as important in and of itself: for Democracy and for Native individuals and communities.

Eligible Native voters should be encouraged to participate because their vote just may make the difference in a state or federal races where those who are elected will have tremendous authority over a wide range of issues important to Native people. In localized races, where Native voters comprise a sizeable electoral community, a direct and meaningful impact can certainly be had. But, this must not be the only reason they are encouraged to participate, for there will likely be more elections than not where Native voters themselves will not constitute an electoral majority.

Experiences around the country show that in those cases where Native political interests coincide with other groups, concerted and coordinated effort can create a significant electoral force, even in "up ticket" races.

Those Native Americans living away from their tribal communities constitute a very significant portion of the Native population. To the extent the eligible voters amongst them share political and public policy interests with their communities, the organizing of this group presents possibly the greatest opportunity to leverage the impact of Native voters across Indian Country. This becomes even more critical as more Native American people relocate to urban areas.

The authors and researchers of this report have gathered virtually all available data on Native voting, at least in the states studied. The analysis

presented here will hopefully provide meaningful information for all those who care about increasing Native participation. The fact remains however that critical data holes remain and they can be filled only, and best, by Native communities themselves gathering and keeping such information. With technology advances including the use of PDA's and innovative software already available, the gathering and compiling of this data so that tribal communities themselves can utilize its results is now certainly achievable by most tribal communities.

The authors suggest consideration of a pilot project where a select group of tribes are chosen to create and implement a data gathering process whereby possession of the most accurate information necessary to implement an effective voter operation will be by the tribes. In the 2008 elections, data from the 2000 Census will still be used, creating obvious challenges. Therefore, tribally generated data can give a more accurate assessment of the voting potential of tribal communities.

While not a subject of this report, Native campaign financing is a critically important issue which warrants serious consideration by all those interested in increasing the Native voice in the political process.

Finally this report shows what Native people have always known: Native communities and Native voters are as different as the desert is from the coast and the mountains are from the plains. While labels and simple conclusions are always tempting, they are often wrong. One thing remains clear however, Native Americans are impacted every day by the decisions of local, state and federal policy makers. The importance of helping determine who those people are cannot be overstated. Though there is never a guarantee that any one vote will decide an election, to not vote is to guarantee it won't.

"Nobody will ever deprive the American people of the right to vote except the American people themselves -- and the only way they could do this is by not voting." (Franklin D. Roosevelt).

Mr. CHABOT. Thank you very much. The gentlewoman's time has expired.

I'd like to explain what's going on here. The bells indicate that we've been called to the floor for a series of votes. Unfortunately, those series of votes are going to extend over probably an hour's period of time, so we have somewhat of a dilemma here. We could come back after an hour, which would inconvenience the panel obviously even more than they've already been inconvenienced.

We've come up with possible plan, and what we have indicated, and I think the minority side is agreeable with this is that we would allow the witnesses to submit their testimony in writing. We would then have access to all that, read it, and then be able to submit questions to the panel, and if you all would be willing to get those questions back to us.

The alternative to that is to come back or to have another hearing on another date, but we don't want to inconvenience the panel there as well.

And I would at this point yield to perhaps the Ranking Minority, Mr. Conyers, to perhaps get his input. I think the staff has indicated they were—they had talked to Mr. Nadler, and he's agreeable to submitting in writing and not having another.

Mr. CONYERS. Mr. Chairman, I have no objection to that procedure.

Mr. CHABOT. Okay. Is there—members of the witness panel okay with that? Would you be willing to submit in writing your statements?

Ms. JOHNSON. Sure.

Mr. CHABOT. I think all the witnesses are indicating in the affirmative. We will then submit to you in writing our questions, and if you could get those responses back to them, they will all be entered into the record, just as if this had been done orally.

I apologize for any inconvenience, but it would be inconvenient really any way we handled this at this point, and because of the lateness of the hour, I think probably this is the best solution under the circumstances.

So if there's no further business to come before this Committee, that will be the process that we'll follow. And, again, I want to apologize to the panel, but we will do this in writing just as we would have done it orally had you been here.

Mr. Cartagena?

Mr. CARTAGENA. Yes, Mr. Chairman. Just one quick question—

Mr. CHABOT. Yes.

Mr. CARTAGENA. —for clarification. Would it be possible for each one of us members of this panel to receive each other's submission, because many times the questions that you will ask are—

Mr. CHABOT. Absolutely.

Mr. CARTAGENA. —informed by the positions taken by other members.

Mr. CHABOT. Absolutely. And we'll rather than have the questions come at you from different angles, we'll have the staff get these all together so you get our questions all at one time together, and we'll make sure that you all are provided with each other's statements as well.

I think Mr. Nadler is in agreement as well.

Mr. NADLER. Yes. He's in accord.

Mr. CHABOT. Is in accord. So we're all in agreement? So if there is no further business to come before the Committee, we're adjourned.

Thank you

[Whereupon, at 5:26 p.m., the Subcommittee was adjourned.]

**VOTING RIGHTS ACT: SECTION 203—
BILINGUAL ELECTION REQUIREMENTS
(Part II—Continued)**

THURSDAY, NOVEMBER 10, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE CONSTITUTION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:05 a.m., in Room 2141, Rayburn House Office Building, the Honorable Steve Chabot (Chair of the Subcommittee) presiding.

Mr. CHABOT. The Committee will come back to order.

I, first of all, want to apologize again to our witness panel for being interfered with by the votes on the floor, which of course occurs periodically around here, but since we had two hearings on the Voting Rights Act scheduled yesterday, and the first one pushed into the second one, it made things, unfortunately, a little more awkward than they otherwise would have been. And I want to also indicate again that we had essentially come up with a procedure where we would submit questions in writing. The panel was gracious enough to be willing to come back and testify again today. I expect other members of the panel to arrive here shortly.

We only have this room until 10 o'clock because there is already a previously scheduled hearing on the Subcommittee on Crime, and it is at 10 o'clock.

When we ended yesterday, Ms. Johnson had already given her opening statement. We will now go to the other members of the witness panel who have already been sworn in. We had already waived opening statements up here and agreed, because of the shortness of time, that we would go immediately to questions after the statements. So without objection, we will continue that.

And at this point, Mr. McAlpin, I will go to you for your opening statement. And again, it is a 5-minute opening statement. Thank you.

**TESTIMONY OF K.C. McALPIN, EXECUTIVE DIRECTOR,
PROENGLISH**

Mr. McALPIN. Mr. Chairman and distinguished Members of the Committee, thank you for the opportunity to present our views on renewing the bilingual ballot provisions of the Voting Rights Act.

ProEnglish is a national organization whose mission is to defend English as the common language of our country and to make it the official language at all levels of government.

Mr. Chairman, I want to thank you for your leadership in the struggle to make English our official language, a position endorsed by 79 percent of voters and 81 percent of immigrants, according to the most recent poll.

Bilingual ballots are a costly, unfunded mandate that function like a tax on English-speaking Americans. Two separate General Accounting Office reports to Congress found solid evidence that in most jurisdictions covered by sections 203 and 4(f)(4), bilingual ballots are hardly used, and where they are used, their use scarcely justifies the cost and effort needed to provide them.

In my written testimony, which I ask that you include in the official Committee record, I give a number of reasons why we think the bilingual ballot, provisions of the Voting Rights Act should not be reauthorized, but in the time I have, I want to focus on four.

First, the rationale for providing bilingual ballots is no longer valid. The reasons that persuaded Congress to add bilingual ballot provisions to the Voting Rights Act 10 years after it was enacted had nothing to do with voting rights discrimination; rather, supporters told Congress that certain language minority groups had not had access to equal educational opportunities in this country. Those were Alaska Natives, American Indians and American citizens of Asian or Hispanic descent. Backers said this lack of opportunity had caused these groups' literacy rate to be below the national average, and argued that they needed help while the educational system caught up. This is why Congress intended bilingual ballots to be a temporary remedial measure.

Thirty years later the driving factor behind the literacy rate of the two largest of these groups, Asians and Hispanics, has little to do with educational opportunities in this country. I want to make a distinction between these two groups and American Indians and Alaskan Natives, which I discuss in my written testimony.

In 1975, the vast majority of our Hispanic and Asian citizens were Natives; today the situation has changed. Immigrants are now by far the biggest component in these groups and the dominant factor affecting their English literacy rates.

Recent studies suggest that the main reason for the elevated school drop-out rates among these groups is the lack of educational opportunities they experienced in their Native countries before emigrating. It is wrong to impose extraordinary election costs on American taxpayers because of the voluntary decisions of millions of people to move here, and we see no justification for continuing a remedy whose reason for being is completely out of date.

Second, bilingual ballots should not be necessary. For almost 100 years, immigrants have been required to know English in order to naturalize. This is appropriate for a country whose Constitution and founding documents were written in English, whose three branches of government operate almost completely in English, and whose political life is conducted almost entirely in the English language.

So why are we forcing States and counties to provide bilingual ballots for naturalized citizens who should be able to read and understand English? If people are circumventing the law and naturalizing without learning English, then it is their responsibility to

deal with the consequences, not the responsibility of the American people.

Bilingual ballots are also an affront to millions of naturalized American citizens who emigrated to this country, played by the rules, and made great sacrifices to learn English.

Third, bilingual ballots and poll workers also increase the risk of election fraud. There is no doubt that language is an effective way to conceal illegal activity. From the Departments of Motor Vehicles in various States to the U.S. Prison at Guantanamo Bay, Cuba, interpreters have been caught using language as a cover to break the law and even commit espionage. Bilingual voter outreach materials, voter registration forms, absentee ballots and the like all increase the risk that non-citizens will register and vote either accidentally or in deliberate violation of the law. In recent years there have been a growing number of cases in which noncitizens have been caught illegally registering and voting.

Mr. Chairman, bilingual ballots also undermine our national unity. We are in the midst of the largest and most diverse flow of immigration in our Nation's history. As the distinguished Chair of the U.S. Commission on Immigration Reform and a former Member of this House, the late Barbara Jordan, said in testifying to Congress, quote, cultural and religious diversity does not pose a threat to the national interest as long as public policies ensure civic unity.

Removing incentives to learn English does not help ensure our civic unity; instead, such policies discourage assimilation and encourage the formation of linguistically isolated immigrant communities that are outside the mainstream of American life. The violence that has broken out in immigrant neighborhoods across France should be a wake-up call about the danger to a society when assimilation breaks down.

Now, for the record, I want to say emphatically that my organization supports the right of all citizens to vote, but the relatively few citizens who cannot understand English have the same remedies to help them vote that millions of English-speaking illiterates have; they can request an absentee ballot and get help to understand it, they can take a crib sheet or premarked paper ballot with them when they vote, and they have the right to take an interpreter into the poll with them. The law states any voter who requires assistance to vote by reason of blindness, disability or inability to read or write may be given assistance by a person of the voter's choice. These are remedies available to non-English-speaking voters, regardless of whether they live in a covered jurisdiction and regardless of whether or not they happen to be members of one of the covered groups. They are more than adequate to protect the right of qualified voters who have difficulty reading and understanding English to cast a ballot.

Finally, I want to say that requiring citizens to vote using ballots in English discriminates against no one on the basis of race, ethnicity or national origin. No matter how you try, you cannot equate these terms with the language someone speaks. English is spoken as the first language by people of every race, every ethnicity and by dozens of national origins. English is the official language in 51 different nations, most of which are located in Africa, Asia and the

Caribbean. And there are countless examples of racial or ethnic groups as well as nations that speak many different languages.

Thank you, Mr. Chairman, for the opportunity to present our views.

Mr. CHABOT. Thank you very much.

[The prepared statement of Mr. McAlpin follows:]

PREPARED STATEMENT OF K.C. McALPIN

STATEMENT OF

**K.C. McALPIN
EXECUTIVE DIRECTOR**

PROENGLISH

FOR THE

**CONSTITUTION SUBCOMMITTEE
OF THE HOUSE JUDICIARY COMMITTEE**

Hearing on
Wednesday, November 9, 2005

This statement is to convey ProEnglish's concerns regarding extension of Sections 4(f)(4) and 203 of the Voting Rights Act of 1965, as Amended.

"Cultural and religious diversity does not pose a threat to the national interest as long as public policies insure civic unity. Such policies should help people learn to speak, read, and write English effectively." – The Honorable Barbara Jordan

INTRODUCTION

Chairman Chabot, Representative Nadler, and distinguished members of the Committee: thank you for the opportunity to present ProEnglish's views on Section 203 and Section 4(f)(4), the language minority provisions of the Voting Rights Act of 1965, as amended.

My name is K.C. McAlpin and I am the executive director of ProEnglish. ProEnglish is a national public interest organization whose goal is to make English the official language at all levels of government and protect its historic role as the common unifying language of our country. ProEnglish relies on voluntary contributions from its members for its support, and receives no federal grants or financial assistance of any kind.

Mr. Chairman let me take this opportunity to thank you for your leadership in the important struggle to preserve our nation's unity in the English language, and for giving ProEnglish this opportunity to explain why we think the minority language provisions of the Voting Rights Act ("the Act") should not be renewed.

BACKGROUND & TERMS

For simplicity I will refer to Section 203 and Section 4(f)(4) of the Voting Rights Act, as amended, as the "bilingual ballot" provisions of the Act. But we recognize that these provisions may require ballots to be printed in several languages – not just two – and that the requirement extends far beyond the printing of ballots to include all voting notices, forms, instructions, assistance, and information printed or otherwise provided in English.

The Voting Rights Act of 1965 was enacted to eliminate barriers to voter registration that historically had been used to prevent black citizens from registering and voting. Ten years later, in 1975, Congress expanded the scope of the Act by adding the bilingual ballot provisions. These provisions require covered jurisdictions to provide bilingual ballot materials for specified language minorities. These language minorities are American Indians, Asian Americans, Alaskan Natives, and Americans of "Spanish Heritage." Although originally intended to be temporary, Congress renewed these provisions in 1982 and again in 1992. They are now scheduled to expire in August 2007.

Political jurisdictions such as states and counties are required to provide bilingual election materials if:

- More than 5 percent of the jurisdiction's voting age citizens are limited English proficient members of one of the language minority groups, or
- More than 10,000 of the jurisdiction's voting age citizens are limited English proficient members of one of the language minority groups, and
- The illiteracy rate of the language minority group citizens is higher than the national illiteracy rate.

Mr. Chairman, the following are the reasons why we think Congress should not renew the bilingual ballot provisions of the Act.

1. THE RATIONALE FOR PROVIDING BILINGUAL BALLOTS IS NO LONGER VALID

It is clear that Congress originally intended bilingual ballots to be a temporary remedy. They were meant to redress the unequal educational opportunities that advocates claimed had been provided to certain language minority groups and which had resulted in lower than average English literacy rates among those groups. This is the reason the law covers only designated language minority groups whose literacy rate is lower than the national average.

Mr. Chairman today, thirty years after this temporary remedy was adopted, the situation has changed dramatically. Except for American Indians, the driving force behind the lower than average English literacy rates of the Act's designated language minority groups is the large percentage of these populations that is of non-native origin, and whose first language is not English.

In fact if educational opportunities correlate with data on dropout rates, recent research by the Pew Hispanic Center and others show that school drop out rates for various immigrant groups including Asian and Caribbean immigrants are actually lower than the U.S. average.¹ The studies also found that poor academic performance among immigrant students is closely tied to the lack educational opportunities they experienced in their country of origin, and the immigrants' tendency to settle in overcrowded inner city school districts rather than any intentional or unintentional failure to provide them with equal educational opportunities in the U.S.²

So the reasons that persuaded Congress to adopt bilingual ballots as a remedy thirty years ago are out of date and no longer apply. Voting is both a right and a responsibility of citizenship. It is simply unfair to impose the burden of providing ballots in multiple languages on state and local governments because of the voluntary decisions of millions of people to immigrate to this country.

2. BILINGUAL BALLOTS SHOULD NOT BE NECESSARY

The United States is an English-speaking country in which virtually all of its citizens speak, read, and understand the English language. Since 1907 the United States has required immigrants to learn English in order to naturalize and acquire the rights of citizenship, including the right to vote in federal elections. We believe this is entirely correct and appropriate for a nation whose constitution and founding documents are written entirely in English, whose legislative, administrative, and judicial branches

¹ Pew Hispanic Center, "The Higher Rate of Foreign-born Teens: The Role of Schooling Abroad," and "The High Schools Hispanics Attend: Size and Other Key Characteristics," Nov. 1, 2005. See also Public Policy Institute of California, "Educational Progress Across Immigrant Generations in California," 2005.

² Ibid.

operate almost exclusively in English, and whose political life is conducted almost entirely in the English language.

Local jurisdictions should not be required to print foreign-language ballots for naturalized citizens who are already required by law to be able to read and understand English. If, despite the law, people are naturalizing without learning English well enough to read and understand a ballot in English, then that is their fault and not the public's. It is the responsibility of every naturalized U.S. citizen to learn English. Those who choose not to have a personal responsibility to accept the consequences of their decision.

Bilingual ballots are also an affront to millions of naturalized American citizens who have made great sacrifices to study and learn English, and play by the rules.

3. THE INHERENT COMPLEXITY OF LANGUAGES MAKES IT DIFFICULT TO IMPLEMENT BILINGUAL BALLOTS IN PRACTICE

Justice Department regulations implementing the bilingual ballot provisions have to deal with daunting problems due to the inherent complexity of language. In many countries there is no majority language. For example, a designated language minority group such as "Filipino" may meet the law's numerical threshold, but the population itself may speak any one of a number of mutually unintelligible languages. India, for example has fifteen official languages, no one of which is spoken by more than 30 percent of the nation's population. Other language groups like "Chinese" include speakers of a number of distinct and mutually unintelligible dialects. So a significant proportion, or even a majority of a language minority group that qualifies for bilingual ballot coverage, may derive no actual benefit from bilingual ballots at all.

Some languages like Japanese can be written using different character sets – each of them legitimate. Other languages have no written form at all. All these characteristics of language can result in mind-numbing translation and proof reading problems for local election officials charged with administering the law, as well as add to their overall cost and difficulty. They also increase the risk of making serious mistakes and errors.

In addition, ballot translations add significantly to the length of ballots that are often already formidable in terms of their length and complexity. Even with electronic voting machines election officials in cities like Denver have found it difficult to find space on their electronic screens for translations into Spanish alone.³ The Census Bureau reports that there are now 324 languages being spoken in the United States.⁴ Trying to cope with the complexities of this enormous linguistic diversity with solutions like bilingual ballots is going to become an increasingly impossible job to do.

³ *Associated Press*, "30 states have multilingual ballots," 2002

⁴ U.S. Census, 2000 data files.

4. BILINGUAL BALLOTS ARE WASTEFUL

By a 10-1 ratio, jurisdictions covered under Section 203 said that the language assistance “was not needed” in a 1986 GAO report about the cost and use of bilingual ballots.⁵ Fifty-three percent of the 49 jurisdictions that responded – more than half – said that *no one in their jurisdictions* used the language assistance.

Yuba County, California spent \$17,411 for Spanish language ballot materials for a 1996 primary election despite the fact that the county’s registrar of voters reported receiving only one request for voter information in Spanish during his 16 years on the job.⁶

This pattern of gross under-utilization of bilingual ballot materials has not changed. King County, Washington (Seattle), reported that after printing 3,600 Chinese language ballots only 24 people requested them for a September 2002 primary election.⁷ The number of Chinese ballots subsequently used in the County’s general election increased to 119 – 90 absentee ballots that were returned and 29 cast at the polls.⁸

In addition to under-utilization, bilingual ballot requirements impose significant logistical problems. Election officials that are often hard pressed to recruit sufficient numbers of English-speaking poll workers due to long hours and low pay are now being forced to search for bilingual poll workers or risk lawsuits by the Justice Department. As Representative Clay Shaw noted on the floor of the House, 150 Broward County, Florida poll workers failed to report for work in the 2002 primary election.⁹ Arlington County, Virginia’s voter registrar expressed relief that her county was not included in the list of covered counties issued by the Justice Department in time for the 2002 elections because she noted there was not enough space to translate the ballot into Spanish on the voting machines the county uses.¹⁰

The law also requires all municipalities and smaller subdivisions of a larger political entity that is covered by the law, to provide the same bilingual ballot materials – even if almost everyone in the smaller subdivision speaks English.

In 2004 the Justice Department ordered Briny Breezes, Florida to print notices for a local election in Spanish, because the town happens to be in a county covered by Section 203. The Justice Department required this despite the fact that Census data showed that 98 percent of the town’s residents are life-long U.S. citizens and 99 percent speak English “very well.”¹¹

⁵ GAO Report to the U.S. Senate: *Bilingual Voting Assistance*, Sept. 1986, p. 39 [GAO / GGD-86-134BR].

⁶ *Policy Review*, “English is broken here,” Sept.-Oct., 1996.

⁷ *Seattle Post-Intelligencer*, “Bilingual ballots draw protests,” Oct. 18, 2002.

⁸ *Seattle Post-Intelligencer*, “Use of Chinese ballots grows,” Nov. 23, 2002.

⁹ Congressional Record, September 18, 2002.

¹⁰ *The Washington Post*, “Montgomery ordered to offer Spanish ballots,” July 27, 2002.

¹¹ *The Washington Times*, February 25, 2004.

The Section 203 coverage formula is overbroad and wasteful. A state may be covered and force thousands of municipalities and political subdivisions to provide bilingual election materials in languages that almost nobody in the local area speaks.

5. BILINGUAL BALLOTS ARE AN UN-FUNDED MANDATE THAT FUNCTION LIKE A TAX ON ENGLISH-SPEAKING CITIZENS

No federal funds are appropriated to pay the cost of bilingual voting materials, which must be paid for by state and local taxpayers. The cost is often a substantial portion of a local government's election costs. A GAO study found that the cost of providing multilingual election materials accounted for 55 percent of Suffolk County, New York's total election costs in 1996.¹² In San Juan County, Utah the percentage was 64 percent.¹³

And the cost of providing bilingual voting materials continues to escalate. The same GAO report found that Los Angeles County taxpayers spent \$1.1 million to provide election materials in five languages in 1996.¹⁴ But by March 2002, the County was spending \$3.3 million out of a total of \$22.6 million to provide voting materials in seven languages.¹⁵ Bingham County, Utah reported that its cost of providing multilingual voting assistance increased 41 percent in four years.

Even though electronic voting machine technology advances have greatly reduced or eliminated the cost of printing ballots, including bilingual ballots in many jurisdictions, the cost of providing and carefully proofreading translations of sometimes lengthy ballots remains, as well as the cost of printing and distributing absentee ballots, and election notices, posters, and materials of numerous kinds.

The heavy burden of paying for bilingual ballot materials in as many as seven languages functions as a tax on English-speaking American citizens for the benefit of citizens who are required by law to learn English in order to naturalize and have the right to vote. Bilingual ballots would not be necessary if immigrants had fulfilled their responsibility to learn English in the naturalization process in the first place. It is simply unfair to tax English-speaking Americans to remedy that failure.

6. BILINGUAL BALLOTS INCREASE THE RISK OF ERRORS AND FRAUD

Introducing multiple languages into the voting booth increases the likelihood of errors and election fraud. In a 1993 election, New York City officials mistakenly printed Chinese language ballots with the character for "no" in place of "yes."¹⁶ During the 2000 general election six polling places located in heavily Chinese populated areas of Queens, New York had "Democratic" translated in Chinese as "Republican" for party labels and

¹² GAO Report to House of Representatives: *Bilingual Voting Assistance*, May 1997, pp.20-21 [GAO/GGD-97-81].

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Associated Press*, "30 states have multilingual ballots," 2002.

¹⁶ *New York Times*, "Bilingual ballot law fails to help Chinese-American voters," Aug. 14, 1994.

vice versa on election day ballots. And the Chinese characters on the ballots were often too tiny to read without magnifying glasses.¹⁷ In 2003, Stockton California mistakenly transposed sections of separate Spanish translations of ballot questions that escaped the notice of proofreaders and resulted in a ballot question that made no sense.¹⁸

The presence of bilingual poll workers who can communicate in languages that cannot be understood by election officials, supervisors, and poll watchers increases the likelihood of voter intimidation, vote steering, and deliberate election fraud. It is an indisputable fact that language can be used to conceal illegal activity. From the departments of motor vehicles in states like Colorado, Pennsylvania, and Illinois, to the U.S. prison at Guantanamo Bay, Cuba, interpreters have been caught breaking the law, and even compromising U.S. national security.

In recent years there have been a growing number of instances in which non-citizens have been caught registering and casting votes in federal, state, and local elections. U.S. Department of Justice says it has conducted over 200 investigations, prosecuted more than 90 individuals, and secured more than 50 convictions for election fraud in the past three years.¹⁹

The widespread availability of voter pamphlets, voter outreach materials, absentee ballot forms, and similar information in foreign languages increases the likelihood that non-citizens will register and vote illegally – a felony offense that directly threatens the integrity of our election process. Bilingual ballot materials, and the use of languages other than English in the polls not only increase the risk of these infractions, they also add to the difficulty of detecting and successfully prosecuting those that commit such offenses. This should be a serious concern to anyone interested in preserving the reality of fair elections on which our democracy ultimately depends.

7. BILINGUAL BALLOTS CONTRADICT OUR NATURALIZATION LAWS AND UNDERMINE OUR NATIONAL UNITY

Bilingual ballots and government efforts to put foreign languages on an equal plane with English at the polls contradict our naturalization laws and undermine our national unity. The United States is experiencing the largest flow of immigration in its history. As the late Barbara Jordan, the distinguished Chair of the U.S. Commission on Immigration Reform and a former member of the House of Representatives pointed out in testifying to Congress, “Cultural and religious diversity does not pose a threat to the national interest as long as public policies insure civic unity.”²⁰

¹⁷ *The Village Voice*, “Chinatown ballot shows Republican as Democrat,” Nov. 13, 2000

¹⁸ *The Stockton Record*, “Sample S.J. ballot contains error – Spanish translation doesn’t make sense,” Feb. 27, 2003.

¹⁹ U.S. Attorney General Albert Gonzalez, Ballot Access and Voting Integrity Symposium, Oct. 4, 2005.

²⁰ Professor Barbara Jordan, Chair, U.S. Commission on Immigration Reform, testimony before the House Subcommittee on Immigration and Claims and the Senate Subcommittee on Immigration, June 28, 1995.

Providing ballots and voting materials in languages other than English clearly remove a major incentive for immigrants to learn English during the naturalization process. It also demeans the effort and sacrifice made by millions of our naturalized citizens to acquire English fluency. Removing the incentive to learn English harms our nation by discouraging assimilation and encouraging the formation of linguistically isolated immigrant communities that are outside the mainstream of American cultural and political life.

Language barriers exacerbate cultural, religious, and ethnic differences and the likelihood of misunderstanding and conflict between immigrants and natives, and between different immigrant groups. There are so many examples of such inter-group conflict related to language in the world that a complete list would fill a book. We are all familiar with the conflict over language that continues to cause problems for our Canadian neighbor to the north. But most Americans probably are not aware that there were very serious and bloody riots over language in Belgium last May.²¹ I could cite many other examples.

Removing incentives to learn English not only harms our nation, it harms the interests of immigrants themselves. When immigrants learn to speak English they greatly enhance their job skills and their potential value to employers. Census data shows that immigrants who speak English “well,” earn 43 percent higher incomes on average than immigrants who don’t.²² If they speak English “very well” they earn twice as much as those don’t.²³ Learning English is key to our ‘Melting Pot’ tradition that has enabled generations of immigrants to successfully assimilate and has helped make our country the most successful nation in the world.

The effort to force a reversal of roles and compel Americans to accommodate the languages of an immigrant stream more diverse than at any time in American history, is certain to undermine the foundation of our national unity with the passage of time.

8. THE UNIQUE CASE OF AMERICAN INDIANS

There are about 550 recognized American Indian tribes located within the United States. All are guaranteed the sovereign right to run their own affairs within their territories under treaties negotiated with the United States. Some of these tribes have unwritten languages and conduct elections using pictures and symbols for various candidates and propositions.

Because of their unique history and status in the United States, their rights should not be confused or conflated with those of non-English speaking naturalized American citizens. The rights of these tribes and their individual members should be a matter of treaty negotiation. Non-English speaking members of these tribes who live outside their reservation are subject to U.S. laws. But they enjoy the same alternatives for casting a vote available to English-speaking blind and illiterate voters that are described below.

²¹ *The London Times*, “War of words explodes as Flemish and French clash,” May 9, 2005.

²² U.S. Census, PUMS files, 1999.

²³ *Ibid.*

9. ADEQUATE ALTERNATIVES ALREADY EXIST

Citizens who cannot read or understand English already have the same remedies available to them that millions of English-speaking American illiterates have. They can request an absentee ballot and get assistance to translate it. They can also take a crib sheet or a pre-marked paper ballot to the poll with them. They also have the right to bring an interpreter into the poll with them: “Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or officer or agent of the voter’s union (42 USC, Section 1973 aa-6, as added in 1982). As interpreted by the Department of Justice, the law specifically allows non-English speaking voters to bring interpreters into the polls with them and allows such interpreters to assist more than one voter.

Mr. Chairman, these remedies are available for non-English speaking voters regardless of whether they live in a covered jurisdiction or not. They are more than adequate to protect the right of qualified voters who cannot read and understand English to cast a ballot.

Many of the organizations and individuals that advocate for bilingual ballots also advocate for non-citizens having the right to vote. Under these circumstances, it is hard to resist the conclusion that bilingual ballots really exist to facilitate encourage voting by non-citizens, which is a crime.

10. CONCLUSION

Bilingual ballots are a wasteful, contradictory, and heavy-handed remedy to address a problem that no longer exists. Americans taxpayers should not be held responsible because some of their fellow citizens have not learned English well enough to read and understand a ballot written in English. Reasonable alternatives to providing bilingual ballots already exist that protect the right of every non-English speaking voter to cast an informed ballot. Bilingual ballots increase the risk of election fraud and undermine the linguistic unity of the United States by removing an important incentive to learn English.

Mr. Chairman, we urge the members of this Committee to heed the words of a distinguished former member of the House of Representatives, the late Barbara Jordan, and vote against the renewal of Section 4(f)(4) and Section 203. These policies clearly do not serve our national interest in preserving our civic and linguistic unity. Thank you for the opportunity to present our views.

Mr. CHABOT. Before we move to our next witness, I just wanted to recognize a distinguished gentleman that is with us here this morning, a former Member of the House of Representatives, Congressman John Buchanan from Alabama, who is a member of the National Commission on Voting Rights Act, and we welcome you, Representative Buchanan.

And now we will move to our next witness. Mr. Tucker, you are recognized for 5 minutes.

TESTIMONY OF JAMES TUCKER, ATTORNEY, OGLETREE DEAKINS, P.C., ADJUNCT PROFESSOR, BARRETT HONORS COLLEGE AT ARIZONA STATE UNIVERSITY, PHOENIX, ARIZONA

Mr. TUCKER. Mr. Chairman and Members of the Subcommittee, thank you for your invitation to testify on a matter of critical importance to all Americans, reauthorization of the temporary provisions of the Voting Rights Act that will expire in August of 2007. My comments will focus on sections 4(f)(4) and 203 of the act.

The language assistance provisions of the Voting Rights Act received strong bipartisan support each time Congress previously considered them in 1975, 1982 and 1992. The same holds true today, as members of both parties and the Subcommittee have recognized by addressing the continuing need for these two sections nearly 2 years before they expire.

I want to begin by briefly addressing the constitutionality of the language assistance provisions of the Voting Rights Act, since that issue came up on Tuesday. The reason no one has challenged these provisions is simple: The United States Supreme Court resolved the issue 39 years ago in *Katzenbach v. Morgan* when it upheld section 4(e) of the act. The State of New York argued that section 4(e) of the act was unconstitutional as applied to New York, which had passed an English language requirement for voting to give language minorities an incentive to learn English.

The Court rejected that assertion, finding that Congress may have, quote, questioned whether denial of a right being so precious and fundamental in our society was a necessary or appropriate means of encouraging persons to learn English or furthering the goal of an intelligent exercise of the franchise.

Katzenbach upheld the language assistance provisions as the valid exercise of congressional enforcement powers under the 14th and 15th amendments, which the Court recognize give, quote, the same broad powers expressed in the necessary and proper clause.

In 1975, Congress relied upon section 4(e) as the foundation for sections 4(f)(4) and 203. Congress noted its constitutional exercise of its enforcement powers by expressly citing *Katzenbach* and the Court's decision in *Meyer v. Nebraska*, a 1923 case in which the Court struck down a prohibition on English in public schools—I'm sorry, in languages other than English in public schools.

As the Supreme Court observed in *Meyer*, quote, "the protection of the Constitution extends to all, to those who speak other languages as well as those born with English on the tongue." Congress agreed with this reasoning in enacting sections 4(f)(4) and 203.

Now I would like to discuss the extent to which previously covered jurisdictions have fulfilled the congressional intent in those two sections.

Congress previously commissioned GAO, in 1984 and in 1986, to examine this issue. The purpose of our study is to update the cost data collected by the two GAO studies and to determine the practice of public elections officials in providing oral and written language assistance. A total of 810 jurisdictions in 33 States were surveyed. Over half of all the jurisdictions in 31 States responded, making this the most comprehensive study of its kind ever conducted.

Some critics have opposed section 203 because they believe it imposes high costs on local election officials. Their fears have not materialized. The costs of compliance were modest, if there are any costs at all. Of the jurisdictions reporting oral language assistance expenses, 59.1 percent report incurring no expense at all. Similarly, of the jurisdictions reporting written language material expenses, 54.2 percent do not incur any additional costs. Of the jurisdictions reporting complete election expenses, 39.5 percent do not incur any added cost for either oral or written language assistance.

Many covered jurisdictions report election practices that fall short of complying with the Voting Rights Act. The absence of bilingual oral language assistance in these jurisdictions can be a significant deterrent to limited English-proficient voters seeking to participate in elections. Sixty-nine responding jurisdictions do not report providing any assistance at all.

For instance, less than half of the respondents report providing assistance for telephone inquiries from voters in all of the covered languages. Significantly, 57.1 percent of the responding jurisdictions report they do not have one full-time worker fluent in the covered language. Only 38.2 percent report having a bilingual coordinator who speaks the covered language and acts as a liaison with the covered language groups. Only 37.3 percent report that they consult with community organizations or individuals from the covered language groups about providing election assistance in those languages.

Furthermore, even where jurisdictions provide the bilingual materials, many acknowledge not doing so for all materials. Most covered jurisdictions acknowledge they do not provide oral language assistance at all stages of the election process. Nearly two-thirds of responding jurisdictions do not require any confirmation of the language abilities of part-time poll workers who are supposed to be out there helping the voters. Two-thirds of the respondents reported that their poll worker training does not include information about the languages covered in the jurisdiction. Only 10.3 percent of the respondents reported voter assistance practices that are at least as protective as section 208. Despite falling short of what section 203 requires—and I see my time is expired, if I can have another minute to sum up.

Mr. CHABOT. Without objection.

Mr. TUCKER. Most election officials report that they support the provision. One respondent described language assistance as, quote, "common sense;" others emphasize it as, quote, "inclusivity" and tendency to, quote, "make voters feel more comfortable coming to

the polls knowing that there is help if it is needed.” One jurisdiction observes that, quote, “language assistance is extremely important in ensuring the integrity of the U.S. Election process and the legitimacy of government outcomes.” Many jurisdictions commend the Justice Department’s enforcement efforts. As another respondent observes, quote, “the Federal Government has done a lot to provide minority language assistance; much remains to be done.”

Our study’s findings highlight the continuing need for language assistance. State and local election officials agree. Of the responding jurisdictions, 71.3 percent think that the Federal language assistance provision should remain in effect for public elections. For these reasons, I recommend in the strongest terms that the temporary provisions of the Voting Rights Act, including sections 4, 6, 8 and 203, be reauthorized.

Thank you very much for your attention. I will welcome the opportunity to answer any questions you may have.

Mr. CHABOT. Thank you.

[The prepared statement of Mr. Tucker follows:]

PREPARED STATEMENT OF DR. JAMES THOMAS TUCKER

Mr. Chairman and Members of the Subcommittee, thank you for your invitation to testify on a matter of critical importance to all Americans: reauthorization of the temporary provisions of the Voting Rights Act that will expire in August 2007. My comments will focus on Section 203 of the Act. The language assistance provisions of the Voting Rights Act received strong bipartisan support each time Congress previously considered them in 1975, 1982, and 1992. As Senator Orrin Hatch observed during the 1992 hearings, “[t]he right to vote is one of the most fundamental of human rights. Unless government assures access to the ballot box, citizenship is just an empty promise. Section 203 of the Voting Rights Act, containing bilingual election requirements, is an integral part of our government’s assurance that Americans do have such access.”¹ Senator Hatch’s observation is equally true today, as Members of both Parties and this Subcommittee have recognized by addressing the continuing need for Section 203 nearly two years before it expires.

I am an attorney in private practice in Phoenix, Arizona and an Adjunct Professor at the Barrett Honors College at Arizona State University. I hold a Doctor of the Science of Laws (or S.J.D.) degree from the University of Pennsylvania. I previously worked as a senior trial attorney in the Justice Department’s Voting Section, in which a substantial amount of my work focused on Section 203 enforcement. I also have a forthcoming article on Section 203 that will be provided to Members of the Subcommittee. I have teamed with Dr. Rodolfo Espino, a Professor in ASU’s Department of Political Science who holds a Ph.D. in Political Science from the University of Wisconsin-Madison, to co-direct a nationwide study of minority language assistance practices in public elections. Our research team includes ten extraordinary students in the Barrett Honors College, who have labored countless hours over the last eighteen months to produce the information I will discuss today.² Our report will be released by the end of this year.

Before discussing our study, I will outline the scope and requirements of the language assistance provisions of the Voting Rights Act to place our findings into context. The provisions apply to four language groups: Alaskan Natives; American Indians; persons of Spanish Heritage; and Asian Americans.³ Each of these language groups includes several distinct languages and dialects.⁴

¹*Voting Rights Act Language Assistance Amendments of 1992: Hearings on S. 2236 Before the Subcomm. On the Constitution of the Senate Comm. On the Judiciary* [1992 hearings], 102d Cong., 2d Sess., S. HRG. 102-1066, at 134 (1992) (statement of Sen. Hatch).

²See Appendix A.

³See 42 U.S.C. §§ 19731(c)(3), 1973aa-1a(e).

⁴See 121 CONG. REC. H4716 (daily ed. June 2, 1975) (statement of Rep. Edwards). When the 1975 amendments were enacted, the Bureau of the Census defined the language minority groups in the following manner:

[T]he category of Asian American includes persons who indicated their race as Japanese, Chinese, Filipino, or Korean. The category of American Indian includes persons who indicated their race as Indian (American) or who did not indicate a specific race

Jurisdictions are selected for coverage through two separate triggering formulas. Under Section 4(f)(4) of the Act, a jurisdiction is covered if three criteria are met as of November 1, 1972: (1) over five percent of voting age citizens were members of a single language group; (2) the jurisdiction used English-only election materials; and (3) less than fifty percent of voting age citizens were registered to vote or fewer than fifty percent voted in the 1972 Presidential election.⁵ This trigger covers jurisdictions that have experienced “more serious problems” of voting discrimination against language minority citizens.⁶

Jurisdictions covered under Section 4(f)(4) must provide assistance in the language triggering coverage and are subject to the Act’s special provisions, including Section 5 preclearance, Section 6 federal examiner coverage, and Section 8 federal observer coverage. Section 4(f)(4) coverage applies in three states (Alaska for Alaskan Natives, and Arizona and Texas for Spanish Heritage) and nineteen counties or townships in six additional states.⁷

Under Section 203 of the Act, a jurisdiction is covered if the Director of the Census determines that two criteria are met. First, the limited-English proficient citizens of voting age in a single language group: (a) number more than 10,000; (b) comprise more than five percent of all citizens of voting age; or (c) comprise more than five percent of all American Indians of a single language group residing on an Indian reservation. Second, the illiteracy rate of the language minority citizens must exceed the national illiteracy rate.⁸ A person is “limited-English proficient” (or LEP) if he or she speaks English “less than very well” and would need assistance to participate in the political process effectively.⁹

Jurisdictions that are covered under Section 203 of the Act must provide written materials and assistance in the covered language. Generally, written materials do not have to be provided for historically unwritten Alaskan Native or American Indian languages.¹⁰ After the most recent Census Department determinations on July 26, 2002, five states are covered in their entirety (Alaska for Alaskan Natives, and Arizona, California, New Mexico, and Texas for Spanish Heritage) and twenty-six

category but reported the name of an Indian tribe. The population designated as Alaskan Native includes persons residing in Alaska who identified themselves as Aleut, Eskimo or American Indian. Persons of Spanish heritage are identified as (a) ‘persons of Spanish language’ in 42 States and the District of Columbia; (b) ‘persons of Spanish language’ as well as ‘persons of Spanish surname’ in Arizona, California, Colorado, New Mexico, and Texas; and (c) ‘persons of Puerto Rican birth or parentage in New Jersey, New York, and Pennsylvania.’”

S. REP. NO. 94–295 at 24 n.14, *reprinted in* 1975 U.S.C.C.A.N. 790–91 n.14 (quoting Letter from Meyer Zitter, Chief, Population Division, Bureau of the Census, to House Judiciary Committee, Apr. 29, 1975).

⁵ See 42 U.S.C. § 1973b(b).

⁶ S. REP. NO. 94–295 at 31, *reprinted in* 1975 U.S.C.C.A.N. 798; *see also id.* at 9, *reprinted in* 1975 U.S.C.C.A.N. 775 (section 4(f)(4) applies to areas “where severe voting discrimination was documented” against language minorities). Specifically, “the more severe remedies of title II are premised not only on educational disparities” like the less stringent provisions under title III of the 1975 amendments, “but also on evidence that language minorities have been subjected to ‘physical, economic, and political intimidation’ when they seek to participate in the political process.” 121 CONG. REC. H4718 (daily ed. June 2, 1975) (statement of Rep. Edwards).

⁷ See Figure C-1. Coverage determinations were published at 40 Fed. Reg. 43746 (Sept. 23, 1975), 40 Fed. Reg. 49422 (Oct. 22, 1975), 41 Fed. Reg. 784 (Jan. 5, 1976) (corrected at 41 Fed. Reg. 1503 (Jan. 8, 1976)), and 41 Fed. Reg. 34329 (Aug. 13, 1976). Covered counties in Colorado, New Mexico, and Oklahoma have bailed out pursuant to Section 4(a) of the Voting Rights Act. *See* 28 C.F.R. § 55.7(a).

⁸ See 42 U.S.C. § 1973aa–1a(b)(2).

⁹ See generally 42 U.S.C. § 1973aa–1a(b)(3)(B) (defining “limited-English proficient” as the inability “to speak or understand English adequately enough to participate in the electoral process”). The 1992 House Report explains the manner in which the Director of Census determines the number of limited-English proficient persons:

The Director of the Census determines limited English proficiency based upon information included on the long form of the decennial census. The long form, however, is only received by approximately 17 percent of the total population. Those few who do receive the long form and speak a language other than English at home are asked to evaluate their own English proficiency. The form requests that they respond to a question inquiring how well they speak English by checking one of the four answers provided—“very well,” “well,” “not well,” or “not at all.” The Census Bureau has determined that most respondents over-estimate their English proficiency and therefore, those who answer other than “very well” are deemed LEP.

H.R. REP. NO. 102–655 at 8, *reprinted in* 1992 U.S.C.C.A.N. 772.

¹⁰ See 42 U.S.C. § 1973aa–1a(c).

states are partially covered in a total of twenty-nine languages.¹¹ Language assistance must be provided under either Section 4(f)(4) or Section 203 in 505 jurisdictions, which includes all counties or parishes, and those townships or boroughs specifically identified for coverage.¹²

There have been few studies examining how jurisdictions have actually implemented the Congressional mandate to provide language assistance in public elections. The General Accounting Office conducted studies in 1984 and 1997 to determine the costs associated with language materials and assistance under Section 203. The 1984 GAO study obtained information from 318 political subdivisions and nineteen state governments.¹³ The 1997 study reported data from 292 covered jurisdictions in 26 states.¹⁴ Both studies were limited somewhat by the inability of many responding jurisdictions to provide the costs of bilingual voting assistance. Our study encountered similar problems.¹⁵ Nevertheless, for those jurisdictions that reported complete expense data, the costs of compliance generally comprise only a small fraction of total election expenses. Congress relied upon the 1984 GAO report to extend Section 203 in 1992.

The purpose of our study is to update the cost data collected by the two GAO studies and to determine the practices of public elections officials in providing oral and written language assistance. Our survey assesses the availability and quality of assistance in several different areas: the use of bilingual coordinators who act as liaisons between the election office and the covered language groups; recruitment and training of election day poll workers; telephonic assistance; oral language assistance at every stage of the election process; written language materials provided to limited-English proficient voters; outreach and publicity; and the ability of voters to receive assistance from the person of their choice. The survey concludes by asking about the respondent's views of reauthorization and the federal government's role in providing language assistance, and an open-ended question about the jurisdiction's experiences under Section 203.¹⁶

A total of 810 jurisdictions in thirty-three states were surveyed. The surveyed jurisdictions include: all jurisdictions specifically identified by the Census Department under either Section 4(f)(4) or Section 203; all counties in the five states that are covered; all cities in covered jurisdictions that the 2000 Census reports as having 50,000 or more people; a handful of jurisdictions that no longer are covered as a result of the 2002 Census determinations; and the chief elections officer in each of the surveyed states. Jurisdictions were guaranteed anonymity to increase the likelihood that they would complete the survey. Over half of all surveyed jurisdictions responded. Complete responses were received from 361 jurisdictions in thirty-one states, making this the most comprehensive study of its kind ever conducted.¹⁷ The actual number of responses varies because some questions did not apply to all respondents and some respondents chose not to answer certain questions.

Some critics have opposed Section 203 because they believe it imposes high costs on local election officials. Their fears have not materialized. The costs of compliance are modest if there are any costs at all. Of the 154 jurisdictions reporting oral language assistance expenses, 59.1 percent (91 jurisdictions) incur no extra costs.¹⁸ Similarly, of the 144 jurisdictions reporting written language material expenses, 54.2 percent (78 jurisdictions) do not incur any additional costs.¹⁹ Of the 158 jurisdictions reporting complete election expenses, 39.5 percent (60 jurisdictions) do not incur any added costs for either oral or written language assistance.²⁰ Other jurisdictions provided narrative responses indicating no additional expenses for the fol-

¹¹ See Voting Rights Act Amendments of 1992, Determinations Under Section 203, 67 Fed. Reg. 48,871 (July 26, 2002) (to be codified at 28 C.F.R. pt. 55) ("2002 Determinations"). Two states that previously were covered in part by Section 203, Iowa and Wisconsin, no longer are covered. See *id.*; 28 C.F.R. pt. 55, App. Section 203 coverage has been extended to political subdivisions of five states not covered previously: Kansas, Maryland, Montana, Nebraska, and Washington. See 2002 Determinations, *supra*; 28 C.F.R. pt. 55, App.

¹² See Figure C-2.

¹³ See U.S. GEN. ACCT. OFF., BILINGUAL VOTING ASSISTANCE: COSTS OF AND USE DURING THE 1984 GENERAL ELECTION 11–12 (1986) ("1984 GAO Study").

¹⁴ See U.S. GEN. ACCT. OFF., BILINGUAL VOTING ASSISTANCE: ASSISTANCE PROVIDED AND COSTS 1, 33 (1997).

¹⁵ See Figure E-1.

¹⁶ The questions are derived from the Voting Rights Act and Census definitions. Survey results have been analyzed in light of Census 2000 data and the number and type of languages covered in each jurisdiction. A copy of the survey is included in Appendix B.

¹⁷ See Appendix D for more information on the survey respondents.

¹⁸ See Figure E-2.

¹⁹ See Figure E-5.

²⁰ See Figure E-8.

lowing: twenty-three for oral language assistance; thirteen for written language materials; and six for both.

Respondents attribute the lack of additional costs to several factors. Many report hiring bilingual poll workers who are paid the same wages as other poll workers. Jurisdictions with Alaskan Native and American Indian voters report that bilingual materials are not provided because the covered languages are unwritten. Several jurisdictions providing bilingual written materials use election officials or community volunteers to translate materials, resulting in no additional costs. In many cases, printing costs do not increase as a result of having bilingual written materials. A number of jurisdictions in New Mexico and Texas report that state laws have language assistance requirements similar to Section 203, resulting in no additional cost for federal compliance.

Of the 154 jurisdictions reporting complete data for oral language assistance, the average cost is 4.9 percent of all election expenses. However, the top ten percent of respondents (16 jurisdictions) skew this result by reporting average costs of 34 percent. By contrast, the remaining 138 jurisdictions report average costs of only 1.5 percent.²¹ Two factors contribute to the disparate results. Some of the sixteen jurisdictions attribute all of their election expenses, including costs for hiring permanent staff and Election Day poll workers who have to be hired regardless of Section 203, to oral language assistance. Furthermore, these sixteen jurisdictions are less populated, with an average total population of 40,262 compared to an average total population of 170,439 in the remaining jurisdictions. When these factors are taken into consideration, our study reveals oral language costs close to the average of 2.9 percent originally reported by the GAO in 1984.²² The average cost of oral language assistance remains approximately the same, regardless of the percentage of voters who need language assistance.²³

A similar pattern emerges for the cost of written language materials. Of the 144 jurisdictions reporting complete data for written materials, the average cost is 8.1 percent. Again, the top ten percent of all respondents skewed the results, with fifteen jurisdictions reporting average written costs of 51.8 percent. The remaining 129 jurisdictions report average written costs of only 3.0 percent.²⁴ These disparate results occur for the same reasons as those reported for oral language assistance. The fifteen outlying jurisdictions have an average total population of 35,664 compared to an average total population of 180,529 for the other 129 jurisdictions. All of the outliers also attribute most—and in a few cases all—of their total written costs to bilingual election materials. When these factors are taken into consideration, the average cost of providing written language materials is substantially below the 7.6 percent reported by the GAO in 1984.²⁵

Even where some costs are incurred, most jurisdictions report that they are negligible because they target language assistance to only those areas that require it. During the 1992 hearings, Congress described effective targeting as whether “it is designed and implemented in a manner that ensures that all members of the language minority who need assistance, receive assistance.”²⁶ Some jurisdictions have heeded these instructions to minimize their costs.

Many covered jurisdictions report election practices that fall short of complying with the Voting Rights Act. Of the jurisdictions responding to the survey, 80.6 percent (287 jurisdictions) report providing some type of language assistance to voters: 60.4 percent (215 jurisdictions) report providing both oral and written language assistance, 14 percent (50 jurisdictions) report only providing written language mate-

²¹ See Figure E-3.

²² See 1984 GAO Study at 20.

²³ See Figure E-4.

²⁴ See Figure E-6.

²⁵ See 1984 GAO Study at 17.

²⁶ H. REP. NO. 102-655 at 9, *reprinted in* 1992 U.S.C.C.A.N. 773. The legislative history from the original 1975 amendments also describes the use of effective targeting. See CONG. REC. S13650 (daily ed. July 24, 1975) (statement of Sen. Tunney); S. REP. NO. 94-295 at 69, *reprinted in* 1975 U.S.C.C.A.N. 820. The Department of Justice guidelines explicitly provide for targeting. See also 28 C.F.R. § 55.17 (stating the Attorney General’s view “that a targeting system will normally fulfill the Act’s minority language requirements if it is designed and implemented in such a way that language minority group members who need minority language materials and assistance receive them”). Even opponents of Section 203 have endorsed the use of targeting. See *generally* Statement of Stanley Diamond, Chairman of U.S. English, on Proposed Extension of Voting Rights Act, in *S. 2236 Hearings*, 102d Cong., 2d Sess., S. HRG. 102-1066, at 300 (describing targeting as the “least objectionable alternative” where it is limited to voter assistance and does not include “printing all materials in languages other than English”).

rials, and 6.2 percent (22 jurisdictions) report only providing oral language assistance.²⁷

The 215 jurisdictions that report providing both oral and written language assistance include: 211 jurisdictions covered for Spanish Heritage, with an average Hispanic voting age population of 29.0 percent, of whom 39.0 percent are limited-English proficient; 16 jurisdictions covered for Asian-American languages, with an average voting age population of 13.8 percent, of whom 43.3 percent are limited-English proficient; and 26 jurisdictions covered for Alaskan Native or American Indian languages, with an average voting age population of 12.4 percent, of whom 20.5 percent are limited-English proficient.²⁸

Jurisdictions providing language assistance are more likely to be covered under Section 4(f)(4) or 203 in their own right than those that do not, which tend to be covered sub-jurisdictions such as counties or cities. There is no relationship between the jurisdiction's total population and whether that jurisdiction provides assistance.

The 50 jurisdictions that report providing only bilingual written materials²⁹ generally have large numbers of limited-English proficient voters in one or more of the covered languages. This group includes 47 Spanish Heritage covered jurisdictions, which have an average Hispanic voting age population of 18.3 percent, of whom 45.4 percent are limited-English proficient. The 13 jurisdictions covered for Asian-American languages that provide only bilingual materials have higher percentages of Asian voting age population and LEP voters than the 16 Asian-American covered jurisdictions providing both oral and written language assistance. According to the 2000 Census, these 13 jurisdictions have an average Asian voting age population of 17.0 percent, of whom 44.6 percent are limited-English proficient. The average percentages of both Spanish Heritage and Asian-American voting age citizens in all 50 jurisdictions are high enough to require full compliance with Section 203.³⁰ Moreover, the absence of bilingual oral language assistance in these jurisdictions can be a significant deterrent to LEP voters seeking to participate in elections.

Of the 22 jurisdictions that report providing only oral language assistance, over two-thirds (15 jurisdictions) are covered for Alaskan Native and/or American Indian languages, which generally do not require written materials. These 15 jurisdictions have an average American Indian voting age population of 27.7 percent, of whom 15.0 percent are limited-English proficient. Only one out of the 63 respondents covered for Alaskan Native or American Indian languages (1.6 percent) report receiving voter requests for bilingual election materials. Jurisdictions providing only oral language assistance also include: 9 jurisdictions covered for Spanish Heritage, with an average Hispanic voting age population of 23.5 percent, of whom 37.2 percent are limited-English proficient; and 1 Asian-American covered jurisdiction, with an Asian voting age population of 7.6 percent, of whom 48.5 percent are limited-English proficient.³¹

Sixty-nine responding jurisdictions (19.4 percent) do not report providing language assistance of any kind. Every covered language group is affected by the lack of assistance in these 69 jurisdictions: 41 are covered for Spanish Heritage, with an average Hispanic voting age population of 18.8 percent, of whom 39.4 percent are limited-English proficient; 19 are covered for Alaskan Native or American Indian languages, with an average Alaskan Native or American Indian voting age population of 17.4 percent, of whom 6.0 percent are limited-English proficient; and 7 are covered for Asian-American languages, with an average Asian voting age population of 13.8 percent, of whom 40.7 percent are limited-English proficient.³²

The failure of many jurisdictions to provide language assistance in the covered languages is attributable to the misperception of election officials about the need for assistance. The 271 respondents estimate that an average of 5.5 percent of their jurisdiction's voters requires oral language assistance in the covered language. However, according to the 2000 Census, the average number of limited-English proficient persons of voting age in these jurisdictions is actually double that number, or 10.9 percent. This divergence between perception and reality is the same regardless of how much language assistance the jurisdiction provides, if any.³³

Less than half of the 326 respondents report providing assistance for telephone inquiries from voters in all of the covered languages: 39.0 percent (127 jurisdictions)

²⁷ See Figure E-11.

²⁸ See Figure E-12.

²⁹ See Figure E-13.

³⁰ Two of the jurisdictions providing only bilingual election materials also are covered for American Indian languages. These jurisdictions only have an average American Indian voting age population of .7 percent, of whom 12.4 percent are limited-English proficient.

³¹ See Figure E-14.

³² See Figure E-15.

³³ See Figure E-16.

provide assistance in all covered languages; 26.4 percent (86 jurisdictions) in some covered languages; and 34.7 percent (113 jurisdictions) in none of the covered languages.³⁴ Jurisdictions with a higher percentage of limited-English proficient voters are more likely to provide telephone assistance in the covered languages. They incur minimal costs for doing so. Of the 116 jurisdictions providing telephonic language assistance that reported their costs, the average cost is only .6 percent of total election expenses.³⁵ Seventy-four percent (86 jurisdictions) report incurring no costs at all. Many jurisdictions report that their low costs are attributed to their use of full-time election workers or volunteers who are fluent in the covered languages.

Significantly, 57.1 percent (192 jurisdictions) of the 336 responding jurisdictions report that they do not have at least one full-time worker fluent in the covered language.³⁶ There is a strong positive relationship between the percentage of limited-English proficient voters and whether they employ bilingual full-time workers in the covered languages.

Even fewer jurisdictions report that they use bilingual coordinators. Bilingual coordinators act as a liaison between election officials and language minority groups, and are routinely required in consent decrees and judicial remedies for Section 203 violations. However, of the 338 responding jurisdictions, only 38.2 percent (129 jurisdictions) report having a bilingual coordinator who speaks a covered language.³⁷

Department of Justice regulations require that covered jurisdictions have “direct contact with language minority group organizations” to ensure language assistance programs are effective.³⁸ However, most covered jurisdictions do not do so. Of the 322 responding jurisdictions, only 37.3 percent (120 jurisdictions) report that they consult with community organizations or individuals from the covered language groups about providing election assistance in those languages.³⁹

Similarly, even where jurisdictions provide bilingual materials, many acknowledge not doing so for all election materials. Our study creates an index of eighteen types of written materials commonly used in elections. Of 284 respondents, two-thirds (189 jurisdictions) report that they translate more than half of all election materials.⁴⁰ The jurisdiction’s population has no relationship to whether bilingual materials are provided. Several jurisdictions separately acknowledge not translating election materials they are required to provide in the covered language, including candidate qualifying forms, election results, voter instructions, and even ballots. Some report that they will do so in the future. Other jurisdictions report they will not provide bilingual materials because of cost, the failure of vendors to offer translation services, technological issues, or the use of bilingual poll workers to translate materials for voters.

Most covered jurisdictions acknowledge that they do not provide oral language assistance at all stages of the election process. Our study creates an index of fourteen types of common election activities. Of the 328 respondents, only 32.9 percent (108 jurisdictions) report that they provide language assistance for more than half of all election activities.⁴¹ Jurisdictions that translate more than half of all election materials are more likely to provide oral language assistance for election activities than those translating less than half of all election materials. The absence of oral language assistance is inconsistent with federal guidelines, which provide that Section 203 “should be broadly construed to apply to all stages of the electoral process, from voter registration through activities related to conducting elections, including for example the issuance . . . of notifications, announcements, or other informational materials concerning the opportunity to register . . . the time, places and subject matters of elections, and the absentee voting process.”⁴²

Where oral language assistance is provided, it is impaired by the failure of most jurisdictions to ensure that bilingual election workers actually are fluent in the covered languages. Nearly two-thirds (210 jurisdictions) of the 324 responding jurisdictions do not require any confirmation of the language abilities of part-time poll workers.⁴³

Responding jurisdictions generally provide regular training for poll workers. However, two-thirds of the 328 respondents (217 jurisdictions) reported that their poll

³⁴ See Figure E-17.

³⁵ The average cost was calculated from the 95 jurisdictions submitting complete cost data that responded to this question.

³⁶ See Figure E-18.

³⁷ See Figure E-19.

³⁸ 28 C.F.R. § 55.18(e).

³⁹ See Figure E-20.

⁴⁰ See Figure E-24.

⁴¹ See Figure E-23.

⁴² 28 C.F.R. § 55.15.

⁴³ See Figure E-21.

worker training does not include information on the languages covered in the jurisdiction. This number may be due to the lack of information included about language assistance in instructional videos, which are used by 63.8 percent (208 jurisdictions) of all respondents.⁴⁴

Poll worker training on voter assistance does not necessarily include accurate training on federal requirements. Section 208 of the Act, which applies nationwide, provides that “[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice,” except for the voter’s employer or union representative. Only 10.3 percent (27 jurisdictions) of the 263 respondents reported voter assistance practices that are at least as protective as Section 208: 1.9 percent (five jurisdictions) correctly stated the federal standard; and 8.4 percent (22 jurisdictions) permit voters to receive assistance from their person of choice, even if it falls into one of the two exceptions in Section 208. These voter assistance practices often are the result of jurisdictions complying with state laws that are more restrictive than Section 208 allows.

Responding jurisdictions are candid in reporting their election practices. Their responses highlight the many challenges they face in removing language barriers in elections to voters. Some jurisdictions have done a commendable job in responding to these challenges. Nevertheless, other jurisdictions still have a long way to go.

Only twelve jurisdictions express opinions that elections should be conducted entirely in English. For example, one respondent notes, “I do not think that it is our responsibility to provide different languages. I think everything should be in English only! That is their responsibility (voter). Go to Mexico or other countries you have to learn their language. You come here and we have to learn theirs. . . .”⁴⁵ A few others criticize enforcement efforts by the Department of Justice.⁴⁶

However, a majority of jurisdictions reject these views. One respondent describes language assistance as “common sense.”⁴⁷ Others emphasize its “inclusivity”⁴⁸ and tendency to make “voters feel comfortable coming to the polls knowing there is help there if needed.”⁴⁹ One jurisdiction observes that “language assistance is extremely important in ensuring the integrity of the U.S. Election process” and the legitimacy of government outcomes.⁵⁰ Another respondent explains, “for the longest time I thought that if you live in the USA, you should learn English. It is very difficult to help someone who doesn’t speak the language. My husband hunts in Mexico and the few times I went with him I felt helpless because I didn’t understand Spanish. It is very overwhelming when you need assistance and can’t get it because of the language barrier.”⁵¹ These concerns cause some jurisdictions to suggest that Congress should “broaden the requirements.”⁵²

Many jurisdictions specifically commend the Justice Department’s enforcement efforts. Some ask the federal government to “[h]elp us come up with the means of getting rid of the ‘this is America, English only’ attitude of many people out there, both voters and election board workers.”⁵³ Others request that the Department do even more to “enforce existing rules.”⁵⁴ One jurisdiction requests that voter assistance requirements also “should be enhanced to let citizens with limited English skills to bring friend or family to help or they should be encouraged to vote absentee.”⁵⁵ As another respondent observes, “the federal government has done a lot to provide minority language assistance.”⁵⁶ Much remains to be done.

Our study’s findings highlight the continuing need for language assistance. State and local election officials agree. An overwhelming majority of the 254 responding jurisdictions, 71.3 percent (181 jurisdictions) think that the federal language assistance provisions should remain in effect for public elections.⁵⁷ For these reasons, I recommend in the strongest terms that the temporary provisions of the Voting Rights Act, including Sections 4, 6, 8, and 203, be reauthorized. Thank you very

⁴⁴ See Figure E-22.

⁴⁵ Respondent 558.

⁴⁶ Respondents 311, 402, 550.

⁴⁷ Respondent 652.

⁴⁸ Respondent 206.

⁴⁹ Respondent 949.

⁵⁰ Respondent 537.

⁵¹ Respondent 773.

⁵² Respondent 616.

⁵³ Respondent 839.

⁵⁴ Respondent 276.

⁵⁵ Respondent 402.

⁵⁶ Respondent 434.

⁵⁷ See Figures E-25 through E-27.

much for your attention. I will welcome the opportunity to answer any questions you may have.

Appendix A:

Biographies of Research Team

Project Co-Directors**Dr. James Thomas Tucker (Chandler, Arizona)**

Dr. Tucker is an Adjunct Professor at the Barrett Honors College at Arizona State University, and co-director of the study of minority language assistance practices in public elections. Dr. Tucker is a Shareholder with the Phoenix law firm of Ogletree Deakins, P.C. He formerly served as a senior trial attorney with the Voting Section of the Civil Rights Division at the United States Department of Justice in Washington, D.C. He has authored several articles on the Voting Rights Act, including a forthcoming piece on the language assistance provisions of the VRA. Dr. Tucker received his S.J.D. and LL.M. from the University of Pennsylvania, his J.D. from the University of Florida, his M.P.A. from the University of Oklahoma, and his B.A. in History from Arizona State University's Barrett Honors College.

Dr. Rodolfo Espino (Phoenix, Arizona)

Dr. Rodolfo Espino is an Assistant Professor in the Department of Political Science at Arizona State University, and is co-director of the study of minority language assistance practices in public elections. Dr. Espino received his B.A. from Luther College and his M.A. and Ph.D. from the University of Wisconsin-Madison. Dr. Espino's primary research and teaching interests are in the fields of American politics and political methodology. Dr. Espino is presently engaged in a number of research projects, including an examination of the effects of residency patterns on public policy attitudes, the determinants of instability in congressional roll call voting, translation effects in surveys of Latinos in the United States, and midpoint inflation bias in public opinion surveys.

Student Researchers at the Barrett Honors College

Rebecca Amrani (Wichita, Kansas)

Ms. Amrani is a Senior in the Barrett Honors College at Arizona State University, majoring in Media Management with a minor in Business. Ms. Amrani is a National Merit Scholar, and recipient of the Grady Gammage Memorial and Sun Devil Scholarships. After graduation, Ms. Amrani plans to pursue an MBA and work in the television industry.

Elizabeth Andrews (Tempe, Arizona)

Ms. Andrews is a Junior in the Barrett Honors College at Arizona State University, with a double major in Political Science and History. Ms. Andrews is a National Merit Scholar and is a recipient of the Leadership Scholarship, Robert C. Byrd Scholarship, and ASU President's Scholarship. Ms. Andrews presently is a Junior Fellow in the Department of Political Science and an Undergraduate Research Fellow in the Center for the Study of Religion and Conflict. After graduation, Ms. Andrews plans to pursue a graduate degree in public policy and attend to law school.

Linley Barney (Farmington, New Mexico)

Ms. Barney is a Senior in the Barrett Honors College at Arizona State University, with a double major in Political Science and Italian. Ms. Barney is a recipient of the Sun Devil Scholarship. After graduation, Ms. Barney plans to attend law school.

Jessica Becker (Anoka, Minnesota)

Ms. Becker is a Junior in the Barrett Honors College at Arizona State University, with a double major in Political Science and Economics. Ms. Becker is a National Merit Scholar. After graduation, Ms. Becker plans to pursue a graduate degree in Economics or attend law school.

Nicole Finch (Peoria, Arizona)

Ms. Finch is a Senior in the Barrett Honors College at Arizona State University, majoring in Psychology. Ms. Finch is a recipient of the President's Scholarship. After graduation, Ms. Finch plans to attend graduate school.

Heather Hinderland (Glendale, Arizona)

Ms. Hinderland is a Senior in the Barrett Honors College at Arizona State University, majoring in Political Science. Ms. Hinderland is one of just five undergraduate students enrolled in the inaugural class of the combined B.A./M.A program in the Department of Political Science. Ms. Hinderland is a recipient of the President's Scholarship. She will be awarded her masters degree in 2007.

Karissa Kater (Phoenix, Arizona)

Ms. Kater is a Senior in the Barrett Honors College at Arizona State University, majoring in Psychology with a minor in Women's Studies. Ms. Kater is a recipient of the ASU Provost Scholarship, and is an active member of the Phi Eta Sigma First-Year Honors Society and Omega Phi Alpha Community Service Sorority. Ms. Kater is planning on pursuing a graduate degree in Clinical Psychology.

Kristine Kelley (Scottsdale, Arizona)

Ms. Kelley is a May 2005 graduate of the Barrett Honors College at Arizona State University, with a B.A. in Journalism and Mass Communication with a concentration in Media Management. Ms. Kellet is a recipient of the ASU Medallion of Merit Scholarship, Rotary Scholarship for Performing Arts, ASU University Scholarship, Phoenix Press Club Scholarship, and Arizona Merit Scholarship. Ms. Kelley was an International Radio & Television Society (IRTS) Summer Fellow in 2004. Ms. Kelley is employed in media planning by Zenith Optimedia in New York City.

Lauron Lovato (Albuquerque, New Mexico)

Ms. Lovato is a Junior in the Barrett Honors College at Arizona State University, majoring in Justice Studies with minors in Spanish and Business. Ms. Lovato is a recipient of the Sun Devil Scholarship. After graduation, Ms. Lovato plans to attend graduate school.

Laura Thorson (Mesa, Arizona)

Ms. Thorson is a Junior in the Barrett Honors College at Arizona State University, with a double major in Political Science and History and a certificate in Philosophy, Politics, and Law. Ms. Thorson is a recipient of the ASU President's Scholarship, Medallion of Merit Scholarship, TruWest Credit Union Scholarship, and Student Development and Memorial Union Pepsi Scholarship. After graduation, Ms. Thorson plans to attend law school.

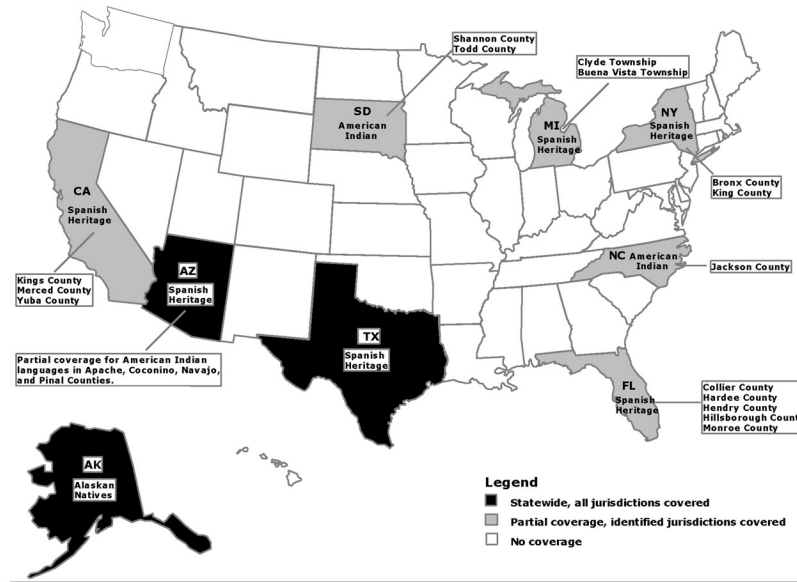
Appendix B:

**Language Assistance in Voting Survey
Barrett Honors College
Arizona State University
February 2005**

Exhibit C:

**Jurisdictions Covered by the Language
Assistance Provisions of the Voting Rights Act**

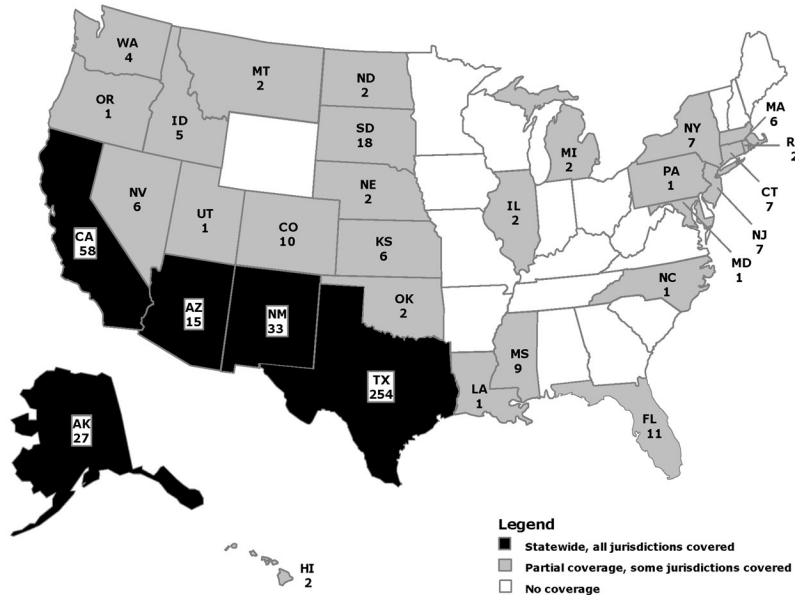
Figure C-1.

Jurisdictions Covered by Section 4(f)(4) of the Voting Rights Act, by State

Source: 28 C.F.R. Part 55, Appendix (summarizing coverage determinations).

Figure C-1 depicts the six states that are covered, either in whole or in part, by Section 4(f)(4) of the Voting Rights Act. The map graph also identifies the covered languages and political subdivisions covered in each state.

Figure C-2.

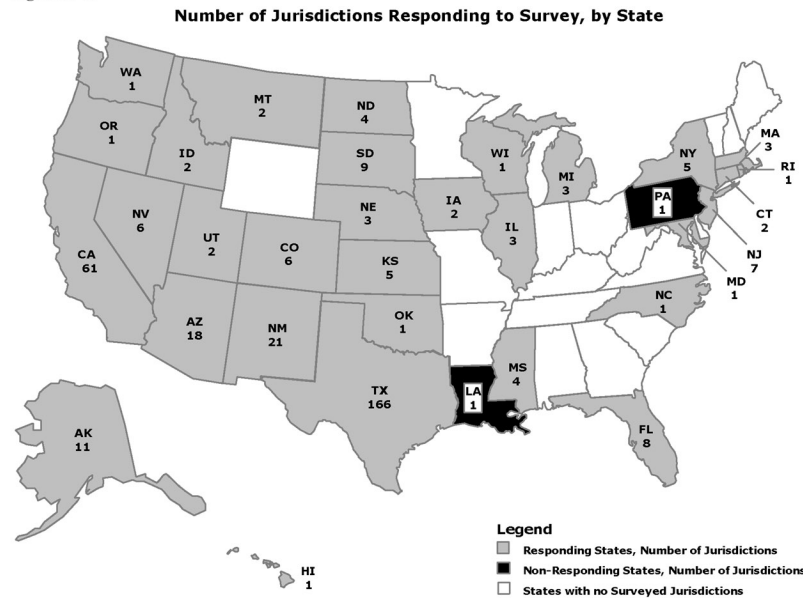
Number of Jurisdictions Covered by Section 203 of the Voting Rights Act, by State

Source: 28 C.F.R. Part 55, Appendix (summarizing coverage determinations).

Figure C-2 depicts the 31 states that are covered, either in whole or in part, by Section 203 of the Voting Rights Act. The map graph includes all of those jurisdictions covered by Section 4(f)(4) of the Act, which triggers coverage under Section 203. The graph also depicts the number of counties/parishes covered in each state, as well as municipalities or townships specifically covered for language assistance.

Exhibit D:
Jurisdictions Responding to the Survey

Figure D-1.



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections.

Figure D-1 depicts the states and covered political subdivisions that responded to the survey. Of the thirty-three states receiving the survey, thirty-one responded (93.9%). Two states with a single covered county or parish, Louisiana and Pennsylvania, did not respond. The number of responding jurisdictions is provided for each state.

Complete survey responses were received from 361 jurisdictions in 31 states. A response was considered “complete” if the responding jurisdiction answered at least half of all of the survey questions. Additional responses were received from approximately

50 additional jurisdictions, which did not complete the survey because they reported that their elections were handled by other surveyed jurisdictions.

Seventy-two percent of all responding jurisdictions are counties, twenty-six percent are cities or boroughs, and two percent are states. Responding jurisdictions ranged from a low population of 67 people to a high of over eight million people, with a mean population of 33,627 people. Among the respondents, 57.9 percent (N = 209) are required to make Section 5 submissions because of coverage under Section 4(f)(4) and Section 4(b) of the Voting Rights Act.

Figure D-2.

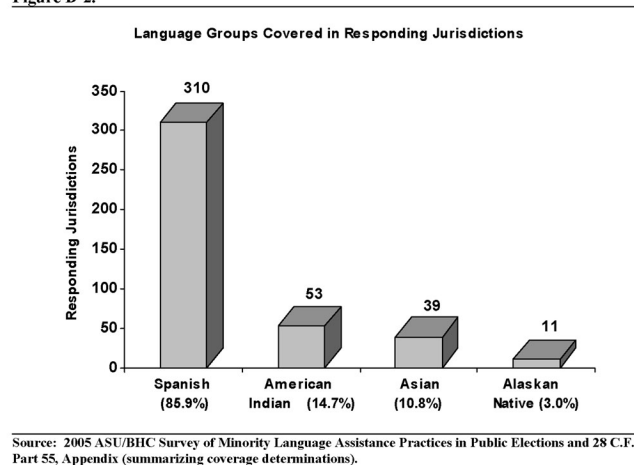
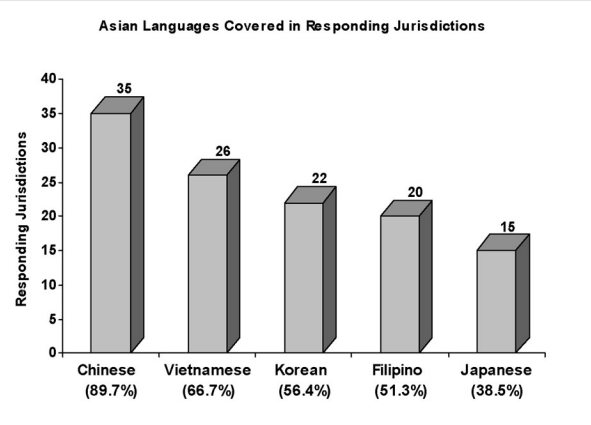


Figure D-2 depicts the languages covered in the responding jurisdictions. Among the respondents, 85.9 percent are covered for Spanish, 14.7 percent for American Indian languages, 10.8 percent for Asian languages, and 3.0 percent for Alaskan Native

languages. Respondents include jurisdictions covered by 26 out of the 29 languages (89.7%) identified for coverage in the July 2002 Census determinations.

Figure D-3.

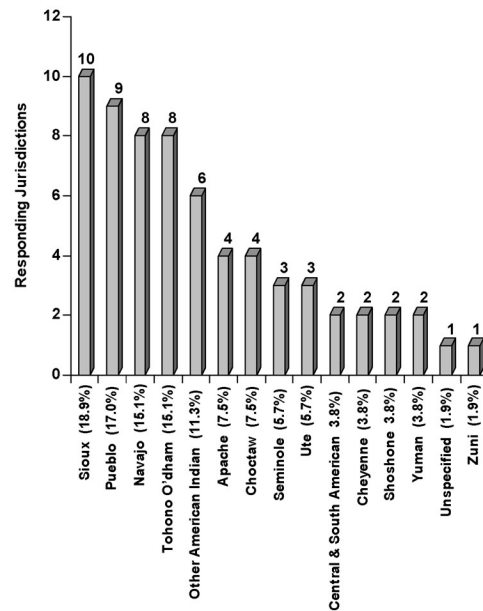


Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections and 28 C.F.R. Part 55, Appendix (summarizing coverage determinations).

Figure D-3 depicts the number of responding jurisdictions covered by Section 203 of the Voting Rights Act for the identified Asian languages. Several of the responding jurisdictions, particularly those in California, are covered for multiple Asian languages.

Figure D-4.

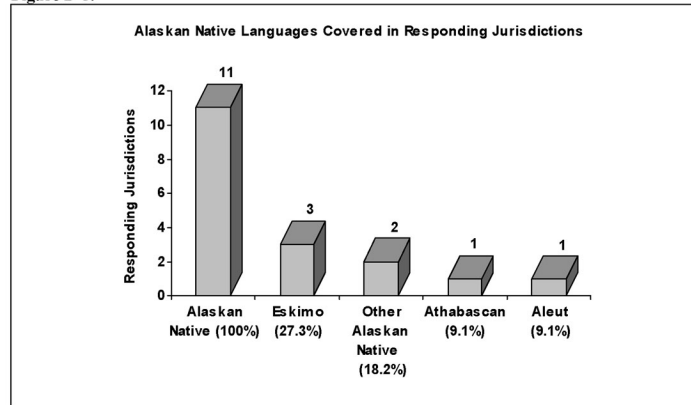
American Indian Languages Covered in Responding Jurisdictions



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections and 28 C.F.R. Part 55, Appendix (summarizing coverage determinations).

Figure D-4 depicts the number of responding jurisdictions covered by Section 203 of the Voting Rights Act for the identified American Indian languages. The respondents are covered for fifteen of the eighteen American Indian language groups (83%). No responses were received from jurisdictions covered for the Chickasaw, Paiute, and Yacqui languages. Some responding jurisdictions in Alaska, Arizona, Nevada, and New Mexico are covered by more than one American Indian language.

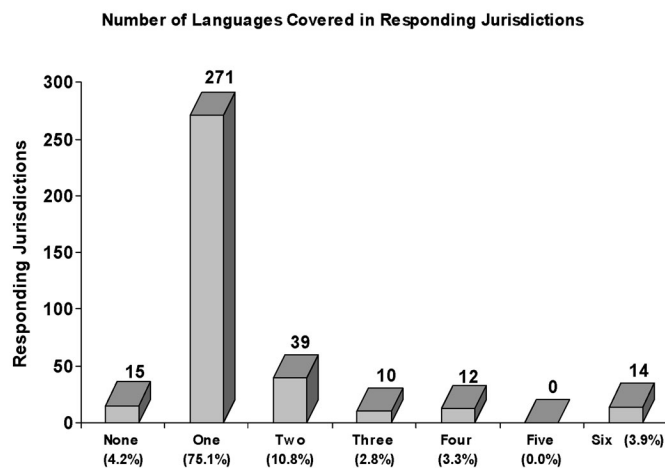
Figure D-5.



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections and 28 C.F.R. Part 55, Appendix (summarizing coverage determinations).

Figure D-5 depicts the number of responding jurisdictions covered by Section 203 of the Voting Rights Act for the identified Alaskan Native languages. At least one response was received for each of the five Alaskan Native languages. All jurisdictions in the State of Alaska are covered for the Alaskan Native languages.

Figure D-6.



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections and 28 C.F.R. Part 55, Appendix (summarizing coverage determinations).

Figure D-6 depicts the number of languages covered in the responding jurisdictions. Responding jurisdictions were covered by an average of 1.4 languages, with the mean jurisdiction covered by one language.

Exhibit E:
Survey Results

Cost Data

Figure E-1.

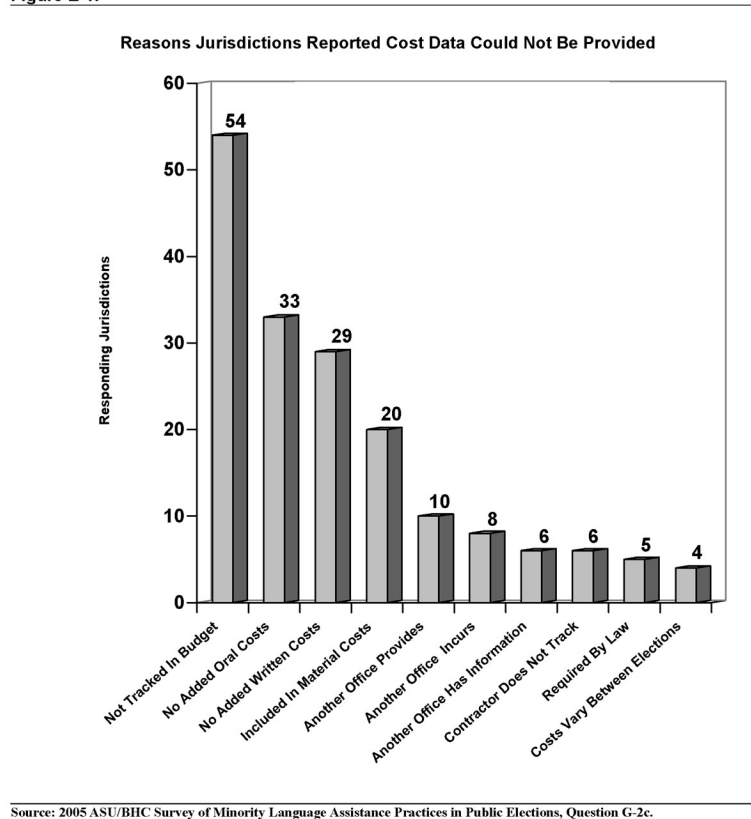
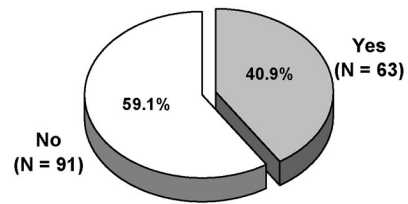
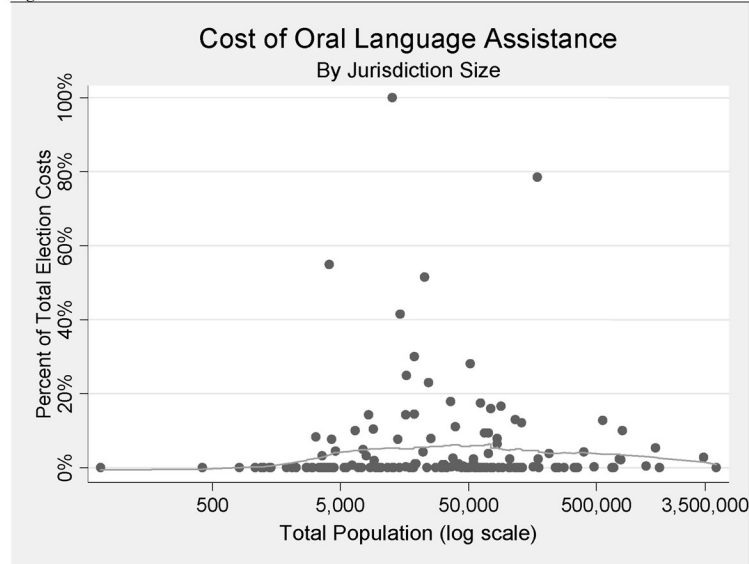


Figure E-2. Respondents Incurring Costs for Oral Language Assistance.



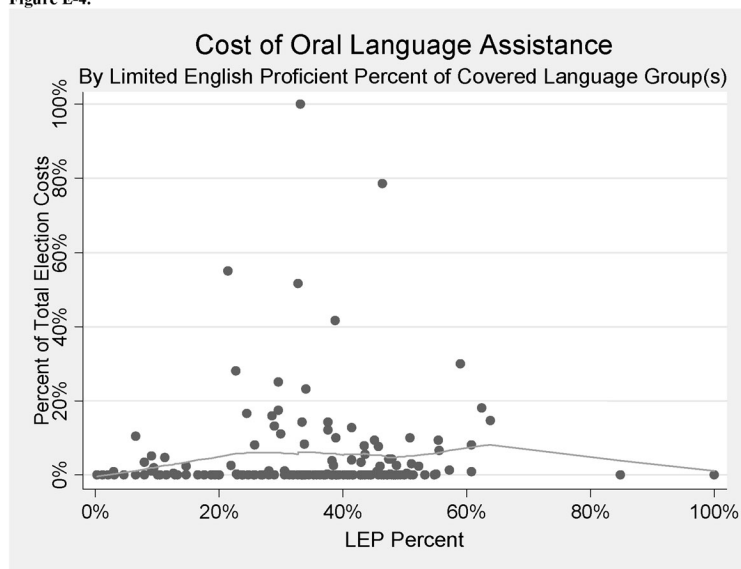
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question G-2a.

Figure E-3.

Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question G-2a and 2000 Census, Summary Tape File 1.

Figure E-3 shows that the average cost of providing oral language (the gray line) remains approximately the same regardless of the responding jurisdiction's population. A majority of all responding jurisdictions reporting no oral assistance costs are depicted on the very bottom of Figure, with the mean jurisdiction incurring no additional costs. Approximately ten percent of all responding jurisdictions reported costs far in excess of the average cost reported by the remaining ninety percent of respondents. These 16 outliers are depicted at the top of the Figure. One jurisdiction reported that 100 percent of its total election costs were attributable to oral language assistance.

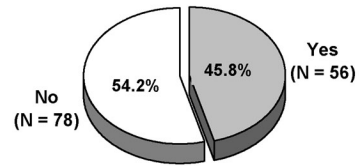
Figure E-4.



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question G-2a and 2000 Census, Summary Tape File 3.

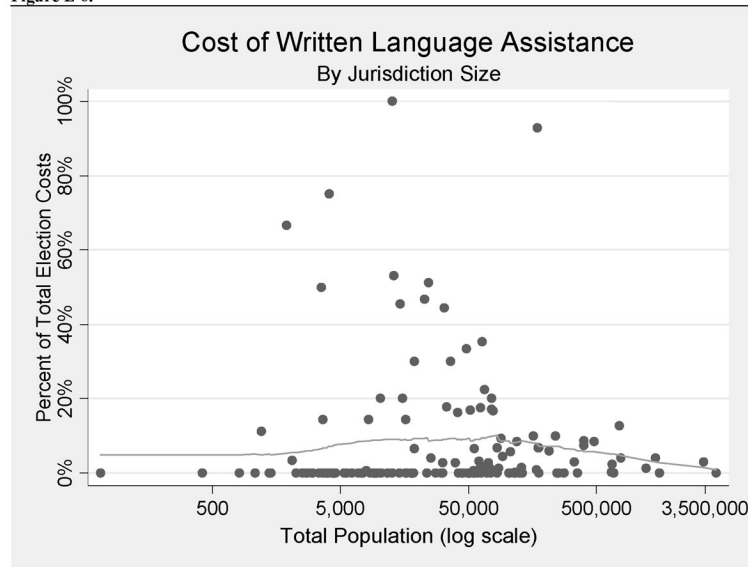
Figure E-4 shows that the average cost of providing oral language (the gray line) remains approximately the same regardless of the percentage of limited-English proficient voters in the responding jurisdiction.

Figure E-5. Respondents Incurring Costs for Written Language Assistance.



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question G-2b.

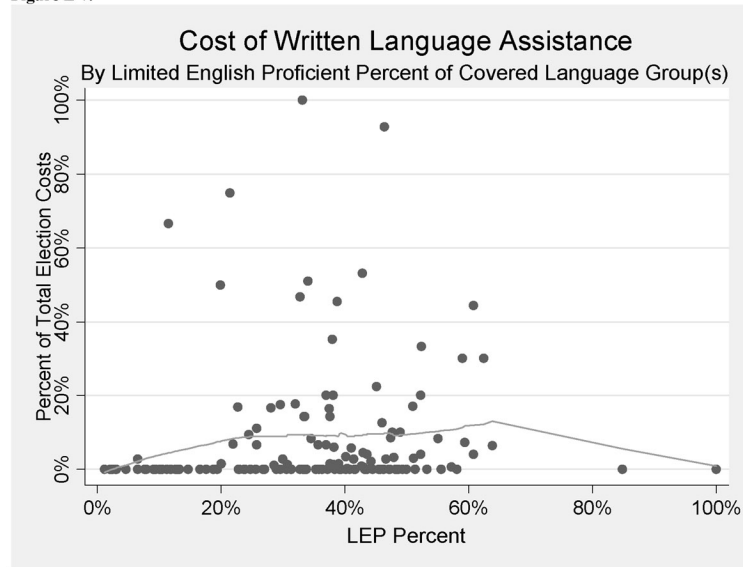
Figure E-6.



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question G-2b and 2000 Census, Summary Tape File 1.

Figure E-6 shows that the average cost of providing written language (the gray line) remains fairly constant regardless of the responding jurisdiction's population. A majority of all responding jurisdictions reporting no costs for bilingual written materials are depicted on the very bottom of Figure, with the mean jurisdiction incurring no additional costs. Approximately ten percent of all responding jurisdictions reported costs far in excess of the average cost reported by the remaining ninety percent of respondents. These 15 outliers are depicted at the top of the Figure.

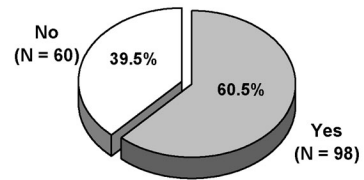
Figure E-7.



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question G-2b and 2000 Census, Summary Tape File 3.

Figure E-7 shows that the average cost of providing bilingual written materials (the gray line) remains approximately the same regardless of the percentage of limited-English proficient voters in the responding jurisdiction.

Figure E-8. Respondents Incurring Costs for Either Oral or Written Language Assistance.



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Questions G-2a and G-2b.

Figure E-9.

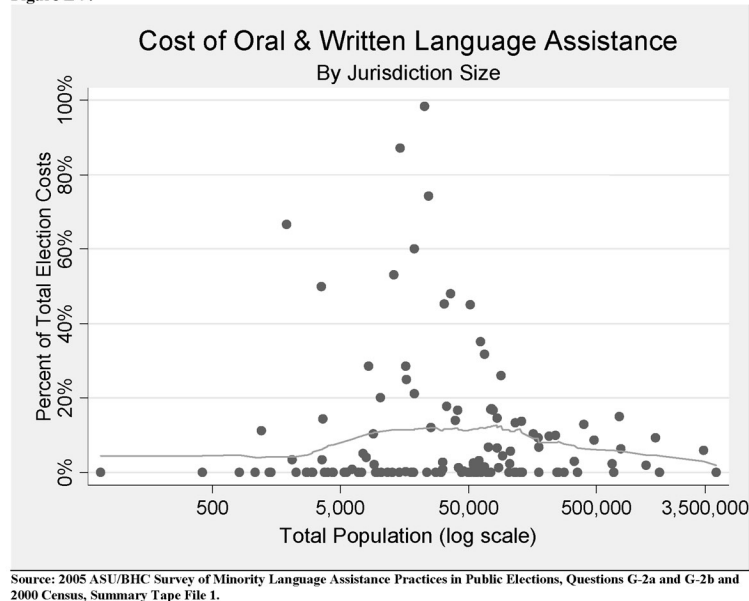
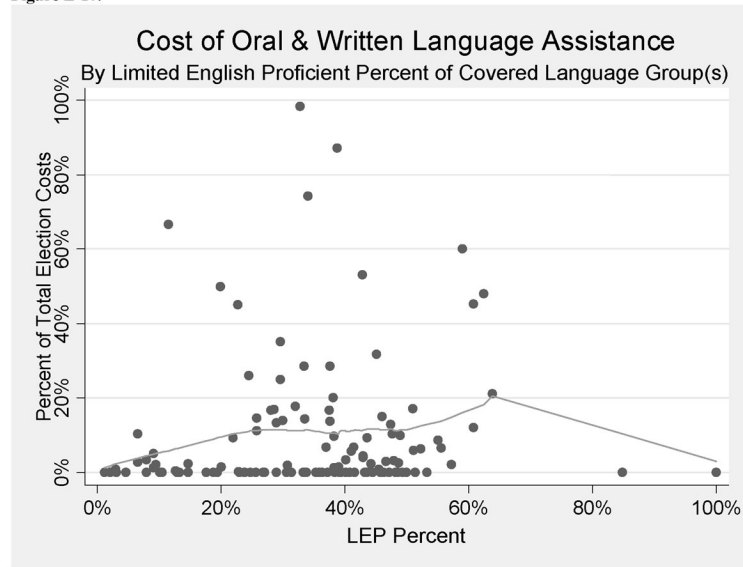


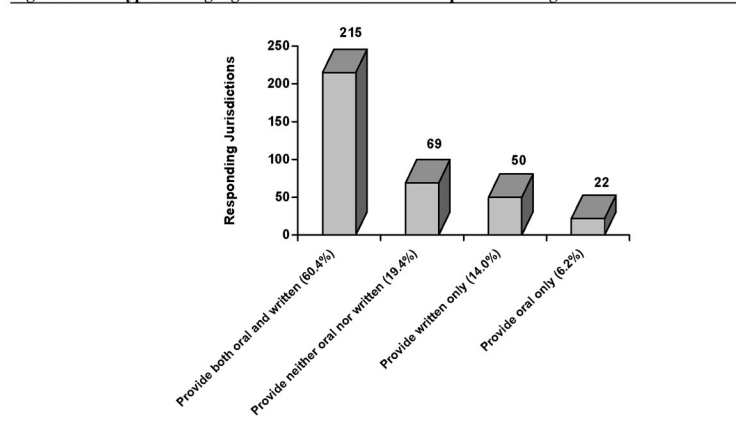
Figure E-9 demonstrates that the average cost of providing both oral and written language assistance remains at roughly the same level regardless of the jurisdiction's population. The vast majority of responding jurisdictions reported total language assistance costs far below the average cost reported by all jurisdictions. Approximately ten percent of the jurisdictions remained outliers, with several jurisdictions attributing all or nearly all of their total election costs to language assistance. Three responding jurisdictions were dropped from Figure E-9 because they attributed more than 100 percent of their total election costs to language assistance.

Figure E-10.



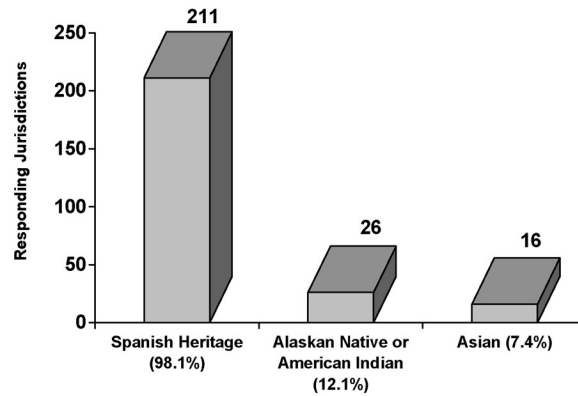
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Questions G-2a and G-2b and 2000 Census, Summary Tape File 3.

Figure E-10 shows only a slight positive relationship between the percent of limited-English proficient voters in a responding jurisdiction and the cost of providing language assistance in that jurisdiction.

Language Assistance Practices**Figure E-11. Type of Language Assistance Jurisdictions Report Providing.**

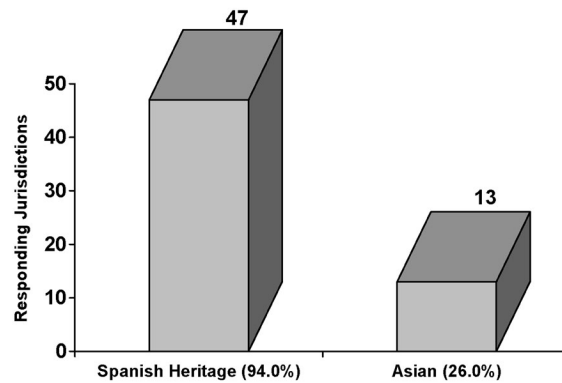
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Sections E and F.

Figure E-12. Jurisdictions Reporting Both Oral and Written Language Assistance is Provided.



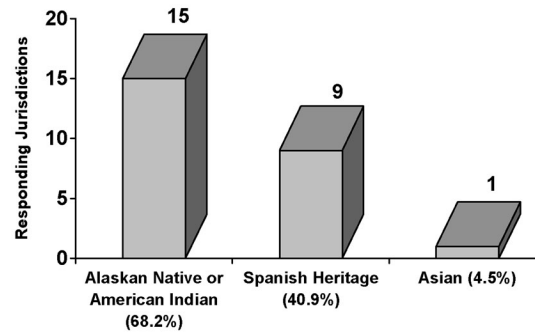
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Sections E and F.

Figure E-13. Jurisdictions Reporting Only Written Language Assistance is Provided.



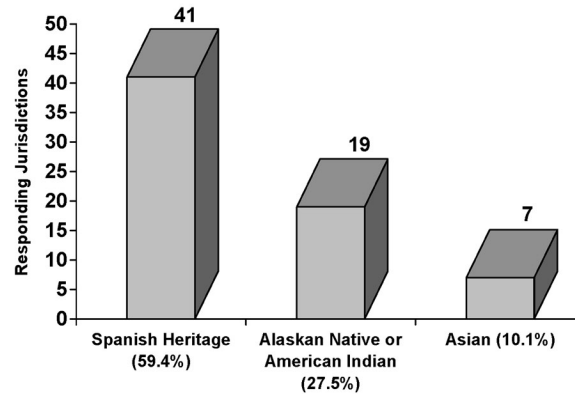
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Sections E and F.

Figure E-14. Jurisdictions Reporting Only Oral Language Assistance is Provided.



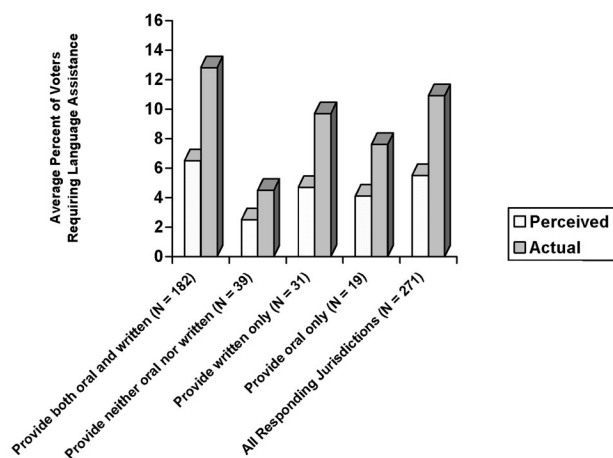
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Sections E and F.

Figure E-15. Jurisdictions Reporting Neither Oral Nor Written Language Assistance is Provided.



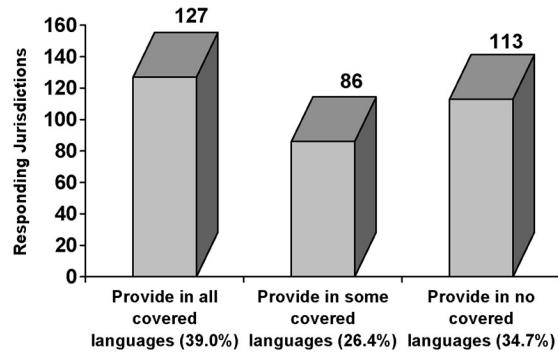
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Sections E and F.

Figure E-16. Jurisdictions' Estimates of Need for Language Assistance Compared to 2000 Census, by Type of Assistance Jurisdiction Provides.



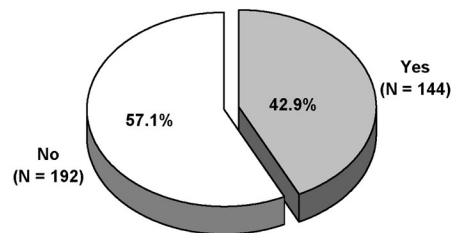
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question E-1 and 2000 Census, Summary Tape File 3.

Figure E-17. Jurisdictions Reporting Language Assistance Provided for Telephone Inquiries.



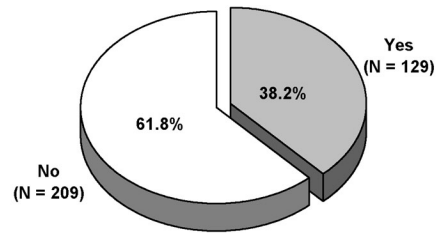
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question D-1.

Figure E-18. Jurisdictions Reporting at Least One Full-Time Worker Fluent in Covered Language.



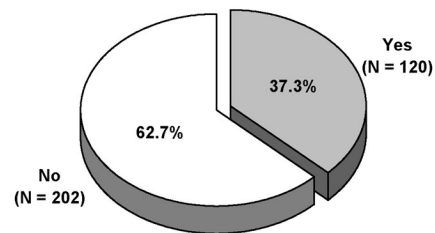
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question A-10.

Figure E-19. Jurisdictions Reporting Bilingual Coordinators Used for Election Activities.



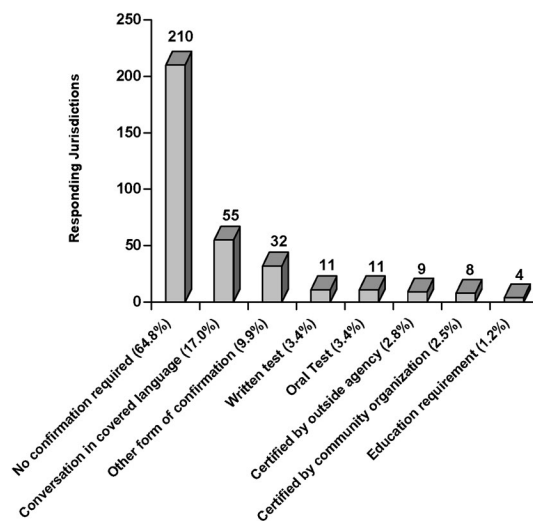
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question B-1.

Figure E-20. Jurisdictions Reporting Consultation with Community Organizations or Individuals.



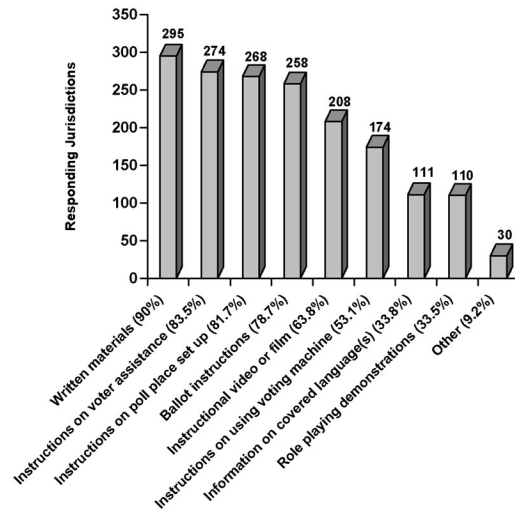
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question G-1.

Figure E-21. Manner in Which Jurisdictions Report Confirming Language Abilities of Part-Time Election Workers.



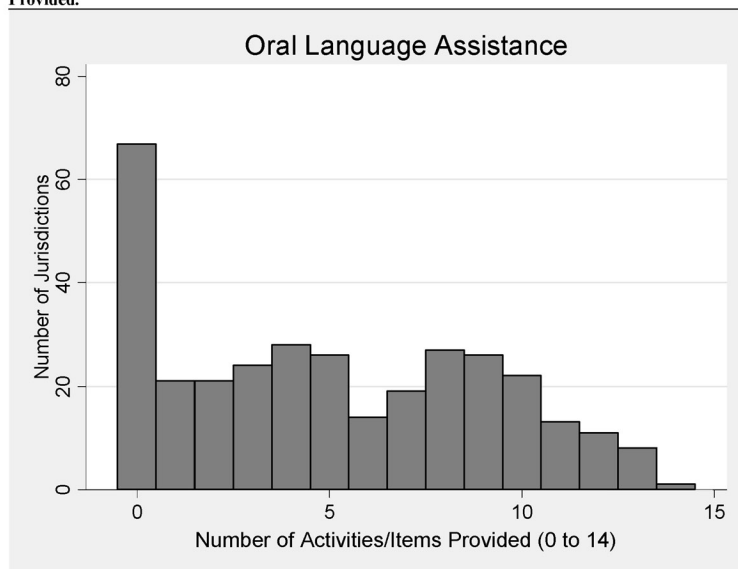
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question C-5.

Figure E-22. Type of Training Jurisdictions Report Providing to Part-Time Election Workers.



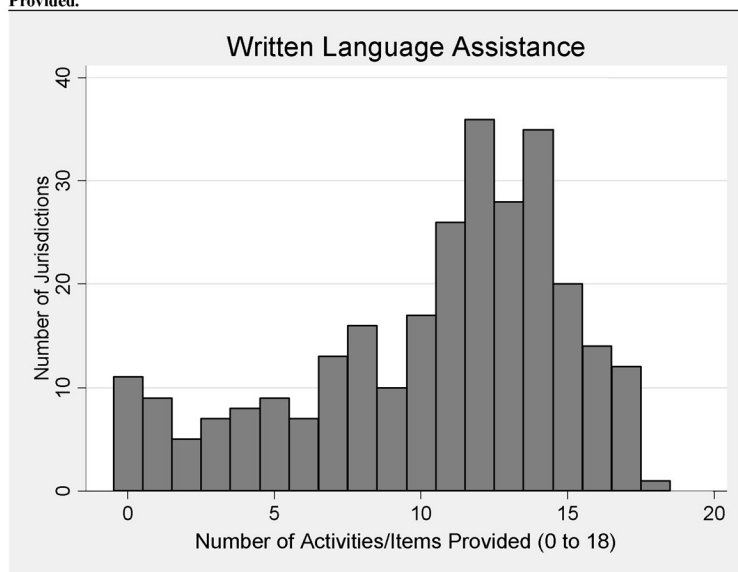
Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question C-7.

Figure E-23. Election Activities for Which Jurisdictions Report Oral Language Assistance is Provided.

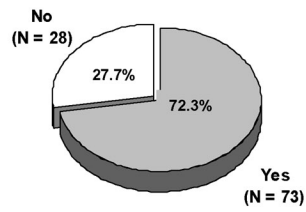


Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question E-2.

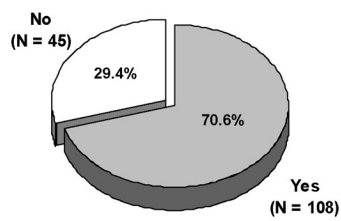
Figure E-24. Election Activities for Which Jurisdictions Report Written Language Assistance is Provided.



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question F-2.

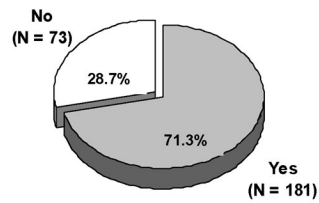
Responding Jurisdictions' Opinions on Reauthorization**Figure E-25. Jurisdictions Not Covered by Section 5 that Support Reauthorizing Section 203.**

Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question H-2, and 28 C.F.R. Part 55, Appendix (summarizing Section 5 coverage determinations).

Figure E-26. Jurisdictions Covered by Section 5 that Support Reauthorizing Section 203.

Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question H-2, and 28 C.F.R. Part 55, Appendix (summarizing Section 5 coverage determinations).

Figure E-27. Jurisdictions that Support Reauthorizing Section 203.



Source: 2005 ASU/BHC Survey of Minority Language Assistance Practices in Public Elections, Question H-2.

Figure E-27 demonstrates that a clear majority of all responding jurisdictions support reauthorization of the language assistance provisions of the Voting Rights Act. Figures E-25 and E-26 show that the percentage of jurisdictions supporting reauthorization is approximately the same, regardless of whether the responding jurisdiction is covered by Section 5 of the Act.

Survey # _____

Language Assistance in Voting Survey

Would you like a copy of the survey report to be mailed to you?

☐ Yes
 ☐ No
Section A: Public ElectionsA-1. How long have you been serving in your current capacity with respect to conducting **public elections**?
 Years

 Months
A-2. On average, how many **public elections** does your jurisdiction have per year? (check one)
☐ One

 ☐ Two or Three

 ☐ Four or Five

 ☐ Six or more
A-3. On average, how many **public elections** is your office responsible for conducting per year?
☐ One

 ☐ Two or Three

 ☐ Four or Five

 ☐ Six or more
A-4. What type of **public elections** is your office responsible for conducting? (check all that

- ☐ Federal general and/or primary (President and Congress)
☐ State general and/or primary (Governor, state legislature, attorney general, etc.)
☐ County general and/or primary (Board of supervisors, county attorney, sheriff, etc.)
☐ City general and/or primary (Mayor, city council, etc.)
☐ Judicial (retention or otherwise)
☐ School board general and/or primary
☐ Special district general and/or primary
☐ Bond elections
☐ Initiatives or referenda (ballot questions)
☐ Other (please specify) _____

A-5. How do voters cast ballots at polling places? (check all that apply)

- ☐ Punch card

 ☐ Paper ballot

 ☐ Optical scan
☐ Touch Screen or DRE

 ☐ Lever machine

 ☐ Internet
☐ Other method of electronic voting (please specify) _____
☐ Other (please specify) _____

A-6. Has your jurisdiction changed its method of voting since 2000?

- ☐ Yes (Please specify approximate date of change) _____
☐ No (If no, skip to question A-7)

Language Assistance in Voting Survey

A-6a. How did voters **previously** cast ballots at polling places?

☐ Punch card ☐ Paper ballot ☐ Optical scan
☐ Electronic voting ☐ Lever machine ☐ Internet
☐ Other (please specify) _____

A-6b. Please indicate from which sources, if any, did your jurisdiction **receive funding** to implement this change.

☐ Federal ☐ State ☐ Local
☐ None ☐ Other (please specify) _____

A-7. Approximately how many registered voters are there in your jurisdiction? (check one)

☐ Less than 2,500 ☐ 2,501 to 5,000 ☐ 5,001 to 10,000
☐ 10,001 to 25,000 ☐ 25,001 to 50,000 ☐ 50,001 to 100,000
☐ 100,001 to 250,000 ☐ 250,001 to 500,000 ☐ 500,001 to 750,000
☐ 750,001 to 1,000,000 ☐ Over 1,000,000

A-8. How many election precincts are there in your jurisdiction? (check one)

☐ 10 or Less ☐ 11 to 25 ☐ 26 to 100
☐ 101 to 250 ☐ 251 to 500 ☐ 501 to 1,000
☐ 1,001 to 1,500 ☐ 1,501 to 3,000 ☐ Over 3,000

A-9. How many **full-time employees** in your jurisdiction are responsible for conducting or assisting with public elections? (check one)

☐ 1 or 2 ☐ 3 to 5 ☐ 6 to 10
☐ 11 to 25 ☐ 26 to 50 ☐ 51 to 100
☐ 101 to 150 ☐ Over 150

A-10. Of the **full-time employees** in question A-9, identify the number who are fluent in the following specified languages: (if none, leave blank)

☐ Alaskan Native ☐ American Indian ☐ Spanish
☐ Chinese ☐ Filipino/Tagalog ☐ Japanese
☐ Korean ☐ Vietnamese
☐ Other Asian languages (please specify all languages) _____
☐ Other languages (please specify all languages) _____

Language Assistance in Voting Survey

Section B: Bilingual Coordinators

B-1. Does your jurisdiction have any **bilingual coordinators** who are responsible for acting as liaisons between the election office and language minority groups (such as Spanish-speaking voters, etc.)?

☐ Yes ☐ No (If no, skip to Section C)

B-2. How many **bilingual coordinators** does your office have for each of the following languages? (if none, leave blank; if a bilingual coordinator is responsible for more than one language, please list all languages for which the coordinator is responsible in the multiple languages response)

<input type="checkbox"/> Alaskan Native	<input type="checkbox"/> American Indian	<input type="checkbox"/> Spanish
<input type="checkbox"/> Chinese	<input type="checkbox"/> Filipino/Tagalog	<input type="checkbox"/> Japanese
<input type="checkbox"/> Korean	<input type="checkbox"/> Vietnamese	
<input type="checkbox"/> Other Asian languages (please specify all languages)	_____	
<input type="checkbox"/> Other languages (please specify all languages)	_____	
<input type="checkbox"/> Multiple languages (please specify all languages)	_____	

B-3. Which of the following best describes the status of **bilingual coordinators**? If multiple categories apply, specify the number of bilingual coordinators for each category.

<input type="checkbox"/> Elected position	<input type="checkbox"/> Appointed position	<input type="checkbox"/> Full-time employee
<input type="checkbox"/> Part-time employee	<input type="checkbox"/> Unpaid volunteer	<input type="checkbox"/> Unpaid student
<input type="checkbox"/> Other (please specify) _____		

B-4. How do you recruit **bilingual coordinators**? (check all that apply)

<input type="checkbox"/> Community organizations	<input type="checkbox"/> Government or school employees
<input type="checkbox"/> Direct solicitation	<input type="checkbox"/> Temporary agencies
<input type="checkbox"/> Translation agencies	<input type="checkbox"/> Election materials mailed to voters
<input type="checkbox"/> Flyers	<input type="checkbox"/> Newspaper advertisements
<input type="checkbox"/> Radio advertisements	<input type="checkbox"/> Television advertisements
<input type="checkbox"/> Political parties	<input type="checkbox"/> Other (please specify) _____

B-5. Which of the following are responsibilities of **bilingual coordinators**? (check all that apply)

<input type="checkbox"/> Recruiting poll workers	<input type="checkbox"/> Training poll workers
<input type="checkbox"/> Training other election officials	<input type="checkbox"/> Preparing written election materials
<input type="checkbox"/> Translating written election materials	<input type="checkbox"/> Community outreach
<input type="checkbox"/> Media liaison	<input type="checkbox"/> Voter instruction
<input type="checkbox"/> Compliance with court order or consent decree	
<input type="checkbox"/> Election day trouble shooting	
<input type="checkbox"/> Other (please specify) _____	

Language Assistance in Voting Survey

B-6. What, if any, is the approximate total annual cost to your jurisdiction for the **bilingual coordinator** program?

\$ _____

Section C: Part-time Election Workers

C-1. How many **part-time** election day workers in your jurisdiction are responsible for conducting elections? (check one)

<input type="checkbox"/> 25 or less	<input type="checkbox"/> 26 to 50	<input type="checkbox"/> 51 to 100
<input type="checkbox"/> 101 to 250	<input type="checkbox"/> 251 to 500	<input type="checkbox"/> 501 to 1,000
<input type="checkbox"/> 1,001 to 2,500	<input type="checkbox"/> 2,501 to 5,000	<input type="checkbox"/> 5,001 to 10,000
<input type="checkbox"/> Over 10,000		

C-2. What position(s) do the **part-time** election workers identified in response to question C-1 hold? (check all that apply)

<input type="checkbox"/> Election judge	<input type="checkbox"/> Poll/board worker	<input type="checkbox"/> Liaison
<input type="checkbox"/> Translator	<input type="checkbox"/> Trouble-shooter	<input type="checkbox"/> Other (please specify)

C-3. Estimate the percentage of **part-time** election workers who are fluent in the following specified languages:

<input type="checkbox"/> Alaskan Native	<input type="checkbox"/> American Indian	<input type="checkbox"/> Spanish
<input type="checkbox"/> Chinese	<input type="checkbox"/> Filipino/Tagalog	<input type="checkbox"/> Japanese
<input type="checkbox"/> Korean	<input type="checkbox"/> Vietnamese	
<input type="checkbox"/> Other Asian languages (please specify all languages)	_____	
<input type="checkbox"/> Other languages (please specify all languages)	_____	

C-4. How do you recruit **part-time** election workers? (check all that apply and specify the language(s) of the recruitment materials on the line at the bottom)

<input type="checkbox"/> Community organizations	<input type="checkbox"/> Government or school employees
<input type="checkbox"/> Direct solicitation	<input type="checkbox"/> Temporary agencies
<input type="checkbox"/> Translation agencies	<input type="checkbox"/> Election materials mailed to voters
<input type="checkbox"/> Flyers	<input type="checkbox"/> Newspaper advertisements
<input type="checkbox"/> Radio advertisements	<input type="checkbox"/> Television advertisements
<input type="checkbox"/> Political parties	<input type="checkbox"/> Other (please specify) _____

Language Assistance in Voting Survey

C-5. How do you confirm the language abilities of the **part-time** election workers? (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> No confirmation required | <input type="checkbox"/> Written test |
| <input type="checkbox"/> Oral test | <input type="checkbox"/> Conversation in language |
| <input type="checkbox"/> Certified by outside agency | <input type="checkbox"/> Certified by community organization |
| <input type="checkbox"/> Education requirement | <input type="checkbox"/> Other (please specify) _____ |

C-6. Which describes the frequency of training provided to **part-time** election workers? (check all that apply)

- | | |
|--|---|
| <input type="checkbox"/> No training provided | <input type="checkbox"/> Training session required annually |
| <input type="checkbox"/> Training session required each election | |
| <input type="checkbox"/> Other (please specify frequency) _____ | |

C-7. Which of the following is included in training provided to **part-time** election workers? (check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Written materials | <input type="checkbox"/> Role playing demonstrations |
| <input type="checkbox"/> Instructions on setting up polling place | <input type="checkbox"/> Ballot instructions |
| <input type="checkbox"/> Instructions on using voting machine | <input type="checkbox"/> Information on covered language(s) |
| <input type="checkbox"/> Instructions on providing voter assistance | <input type="checkbox"/> Instructional video or film |
| <input type="checkbox"/> Other (please specify) _____ | |

C-8. What, if any, is the approximate total annual cost to your jurisdiction for **part-time** election-day workers?

\$ _____

Section D: Telephone Inquiries

D-1. How many of the covered languages in your jurisdiction have someone fluent available for **telephone inquiries**?

- ☐ All ☐ Some ☐ None (If none, skip to Section E)

D-2. How is assistance provided in covered language(s) for **telephone inquiries**? (check all that apply)

- | |
|--|
| <input type="checkbox"/> Separate phone number for covered language(s) |
| <input type="checkbox"/> Phone directory in covered language(s) |
| <input type="checkbox"/> Election worker fluent in covered language(s) |
| <input type="checkbox"/> Phone calls directed to volunteer fluent in covered language(s) |
| <input type="checkbox"/> Other (specify) _____ |

Language Assistance in Voting Survey

D-3. What, if any, is the approximate total annual cost to your jurisdiction for **telephone inquiry assistance** in the covered language(s)?

\$ _____

Section E: Oral Language Assistance

E-1. Estimate the percentage of voters in your jurisdiction who need **oral language assistance** to vote in public elections?

_____ %

E-2. For which of the following activities does your office provide **oral language assistance**? (check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> Poll worker recruitment | <input type="checkbox"/> Voter registration |
| <input type="checkbox"/> Candidate qualification | <input type="checkbox"/> Election-day information |
| <input type="checkbox"/> Early or mail-in voting | <input type="checkbox"/> Absentee voting |
| <input type="checkbox"/> Voter purges | <input type="checkbox"/> Polling place locations and changes |
| <input type="checkbox"/> Checking in at the polling place | <input type="checkbox"/> Voting machine instructions |
| <input type="checkbox"/> Reading the ballot | <input type="checkbox"/> Explaining ballot questions |
| <input type="checkbox"/> Election results | <input type="checkbox"/> Other (specify) _____ |

E-3. How are voters informed about the availability of **oral language assistance**? (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Election materials mailed to voters | <input type="checkbox"/> Flyers |
| <input type="checkbox"/> Signs in covered language(s) at polling place | <input type="checkbox"/> Newspaper advertisements |
| <input type="checkbox"/> Radio advertisements | <input type="checkbox"/> Television advertisements |
| <input type="checkbox"/> Other (please specify) _____ | |

E-4. Is **oral language assistance** provided in the covered language(s) at the polls on Election Day?

☐ Yes ☐ No (If no, skip to Section F)

E-5. How is **oral language assistance** provided in the covered language(s) at the polls on election day? (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Bilingual poll workers | <input type="checkbox"/> Bilingual translators |
| <input type="checkbox"/> Electronic machine with oral instructions | <input type="checkbox"/> Bilingual recordings |
| <input type="checkbox"/> Other (please specify) _____ | |

Language Assistance in Voting Survey

E-6. Who of the following may accompany voters who need assistance in the voting booth?
(check all that apply)

- | | |
|--|---|
| <input type="checkbox"/> Bilingual poll worker | <input type="checkbox"/> Translator |
| <input type="checkbox"/> Poll worker from each major party | <input type="checkbox"/> Campaign workers outside the polls |
| <input type="checkbox"/> Family member accompanying voter | <input type="checkbox"/> Adult accompanying voter |
| <input type="checkbox"/> Child accompanying voter | <input type="checkbox"/> None |
| <input type="checkbox"/> Other (please specify) _____ | |

E-7. What, if any, is the approximate total annual cost to your jurisdiction for **oral language assistance** at the polls on election day?

\$ _____

E-8. Which of the following, if any, are additional costs for **part-time** poll workers who provide oral assistance in the covered language(s)? (check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Recruitment (other than costs in question C-6) |
| <input type="checkbox"/> Certification | <input type="checkbox"/> Use of professional translators |
| <input type="checkbox"/> Other (please specify) _____ | |

Section F: Written Language Materials

F-1. Does your jurisdiction provide **written language materials** in the covered language(s)?

☐ Yes ☐ No (If no, skip to question F-6)

F-2. For which of the following does your jurisdiction provide **written language materials** in the covered language(s)? (check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Internet or web-based information | <input type="checkbox"/> Voter registration materials |
| <input type="checkbox"/> Communications from elections office | <input type="checkbox"/> Sample ballots |
| <input type="checkbox"/> Voters' rights or other information pamphlets | <input type="checkbox"/> Poll worker recruitment |
| <input type="checkbox"/> Early voting or mail-in voting materials | <input type="checkbox"/> Absentee ballots |
| <input type="checkbox"/> Publicity regarding polling place locations | <input type="checkbox"/> Election-day information |
| <input type="checkbox"/> Polling place signs | <input type="checkbox"/> Check-in information |
| <input type="checkbox"/> Instructions on using voting machine or ballot | <input type="checkbox"/> Ballots |
| <input type="checkbox"/> Instructions on provisional ballots | <input type="checkbox"/> Election results |
| <input type="checkbox"/> Election day forms (challenge paperwork, etc.) | |
| <input type="checkbox"/> Other (please specify) _____ | |

Language Assistance in Voting Survey

F-3. Who of the following are involved in translating **written election materials** from English to the covered languages? (check all that apply)

☐ Bilingual coordinators
 ☐ Election office employees
☐ Volunteer translators
 ☐ Professional translation services
☐ Community organizations
☐ Other (please specify) _____

F-4. What, if any, is the approximate total annual cost to your jurisdiction for providing **written election materials** in the covered language(s)?

\$ _____ Translation Costs
 \$ _____ Printing Costs
 \$ _____ Other Costs (please specify) _____

F-5. What, if any, **written election materials** are not available in the covered language(s)? (If none, skip to question F-7)

F-6. Why are the **written election materials** not available in the covered language(s)?

F-7. Have any Alaskan Native or American Indian voters requested that **written election materials** be provided in their covered language(s)?

☐ Yes
 ☐ No

Section G: Election-Related Activities

G-1. Does your jurisdiction consult with community organizations and/or individuals about providing assistance in elections in the covered language(s)?

☐ Yes
 ☐ No
 (If no, skip to question G-2)

Language Assistance in Voting Survey

G-1a. Which of the following does your jurisdiction consult with in regards to providing assistance in the covered language(s)? (check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Churches | <input type="checkbox"/> Schools |
| <input type="checkbox"/> Civil rights groups | <input type="checkbox"/> League of Women Voters |
| <input type="checkbox"/> Clubs | |
| <input type="checkbox"/> Other (please specify) _____ | |

G-2. What, if any, is the approximate total annual cost to your jurisdiction for all election-related activities?

\$ _____

G-2a. What, if any, is the approximate total annual cost to your jurisdiction for providing **oral language assistance** in the covered languages for election-related activities?

\$ _____

G-2b. What, if any, is the approximate total annual cost to your jurisdiction for providing **written language materials** in the covered languages for election-related activities?

\$ _____

G-2c. If you are unable to estimate the costs in 2a and 2b explain why:

Section H: Additional Issues

H-1. What, if anything, do you think the federal government can do to provide minority language assistance to voters?

H-2. Do you think the language assistance provisions to the Voting Rights Act should remain in effect?

☐ Yes ☐ No

Language Assistance in Voting Survey

H-3. Please provide any additional comments about your experiences in providing language assistance to voters:

Thank you for taking the time to complete this survey. Please return your completed survey in the pre-addressed, stamped envelope provided. If you have any questions, please contact

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Mr. CHABOT. Mr. Cartagena, you are recognized for 5 minutes.

**TESTIMONY OF JUAN CARTAGENA, GENERAL COUNSEL,
COMMUNITY SERVICE SOCIETY**

Mr. CARTAGENA. Thank you. Good morning. Chairman and Members of the Subcommittee, thank you very much for inviting me here to share our observations from the Community Service Society on the reauthorization of certain provisions of the Voting Rights Act.

My name is Juan Cartagena. I am general counsel to the CSS and a voting rights attorney since 1981, as soon as I came out of school, that is. And I have been using the Voting Rights Act and its promises of equal opportunity and full political access to serve underserved communities in a number of States and neighborhoods, especially racial and language minorities.

CSS is an independent organization in New York City that uses research, advocacy, volunteerism, and direct service to address issues of poverty and strengthen community life for all. I direct a small public interest litigation unit that serves to supplement its advocacy work. And since 1989, CSS has been using the Voting Rights Act and other legal means to ensure full and fair representation of the city's poorest neighborhoods.

My focus of my testimony that you have, I hope, in your hands, and also of my remarks today, is essentially on the concerns of the Latino communities in New York City, with particular emphasis on the voting rights of Puerto Rican citizens, but inasmuch as I've done quite a bit of work in litigation while in New Jersey, some of my testimony is related to that State as well.

CSS's position in this issue is pretty clear. We have many, many years of doing street registration in poor communities, and of mounting legal challenges to institutional barriers to control political participation. And we strongly support bilingual voting assistance provisions that are a valid and efficient use and policy that promotes democracy. And there are numerous good reasons why the bilingual assistance provision 203 allow language minority citizens an equal opportunity to participate in the process, I will summarize some of them right now for you.

In our view, section 203 is still viable and necessary in 2005 because the full participation of Latino-language minority citizens has yet to be achieved. Equally important, we have needed aggressive enforcement activity from both the Department of Justice and private attorneys general in both States, New York and New Jersey. As a result, in our opinion, the Latino community has yet to reap the full benefits that Congress promised them 15 years ago in the recent amendment and even back further.

About 75 percent of Latinos in this country speak a language other than English at home. That is much higher than the national average of 18 percent. About 41 percent of Latinos in this country speak English less than very well, which is a measure used by the Census Bureau to certify 203 jurisdictions. And about 23 percent, almost a quarter, do not speak English at all. In New York City, the portion of individuals who are Latino who do not speak English very well is even higher, 51 percent.

The issues of turnout in the Latino community were also of concern in the enactment of the Voting Rights provisions or the bilingual assistance provisions of the Voting Rights Act. And here I differ with my panelist Mr. McAlpin that the concerns regarding the bilingual assistance provisions occurred in '75. They occurred as early as 1965, with the enactment of 4(e) that specifically was delegated to the benefit of the Puerto Rican community. In that sense, turnout issues are still an issue; that is, the bilingual assistance provisions were also passed by Congress to address issues of lack of turnout. And today, recent studies regarding the 2004 election by the Pew Hispanic Center demonstrate that 47 percent of eligible Latinos have turned out to vote in the 2004 election, compared to about 67 percent for Whites and about 60 percent for Blacks.

When you look, Mr. Chairman, at the number of Latino elected officials in this country, it is less than 1½ percent of all the officeholders in this country, about 493,000 somewhat offices, and yet Latinos only hold less than 1¼ percent of those offices. Enforcement mechanisms, therefore, have been very important.

In New York, observers from the Justice Department for section 203 compliance have been issued as recently as 2004, and I should say as recently as 2 days ago at the elections in New York City. In Passaic County alone, 450 observers were deployed by the Department of Justice in a 5-year span for the purpose of ensuring that bilingual assistance under 203 will be complied with, for the purpose of also demonstrating that Latino voters will not be intimidated against; that's 450 in 5 years.

203 is also important as—another reason for its reenactment of 203, is also important with respect to the voting rights of Puerto Rican citizens in this country.

I have set forth in my testimony a number of passages from an opinion back in 1965, *U.S. v. Monroe County*. If you have a chance to look at that opinion, gentlemen, you will recognize that all the principles in that opinion are still true today. Puerto Ricans are still subject to the full authority of the territory. Puerto Ricans are still citizens of the United States. Puerto Ricans still migrate back and forth with no inhibition or obstacle whatsoever.

Spanish is still a major feature in Puerto Rican life, both in Puerto Rican and for Puerto Ricans in the United States. About three-quarters of the island population speaks English less than very well. About 40 percent speaks no English at all.

Puerto Ricans here in the United States have different characteristics, but still about a quarter of those speak English less than very well, and in New York and New Jersey that proportion is slightly higher.

So while English is being spoken at much higher rates, we still have a very large proportion of Puerto Ricans, back over there on the island and over here, that are not yet mastering English. They are close to now almost 3.7 million, according to the census, Puerto Ricans in the United States, approaching 3.8 million on the island of Puerto Rico. Very soon, any day now, there will be probably even slightly more.

So let me try to wrap up with the following points. Section 203 is very important because, in our opinion, it promotes good government, responsive government, and government that actually ad-

addresses issues with a formula that is self-maintaining. It will change over time with demographic changes, coverage changes.

The language characteristics of Latinos that I just talked about I think warrant continued coverage. Lack of enforcement and compliance warrant continued coverage. We also are in favor of actually reducing the numerical thresholds from 10,000 to 7,500.

I would be happy to answer your questions if time permits.

Mr. CHABOT. Thank you very much.

[The prepared statement of Mr. Cartagena follows:]

PREPARED STATEMENT OF JUAN CARTAGENA



Testimony of Juan Cartagena
 General Counsel, Community Service Society
 Before the Subcommittee on the Constitution of the
 House Committee on the Judiciary of the
 United State House of Representatives

9 November 2005
 Washington, D.C.

Chairman Chabot, Ranking Member Nadler, and members of the Subcommittee, thank you for the opportunity to appear before this distinguished subcommittee and testify about the reauthorization of certain provisions of the Voting Rights Act, in particular the provisions that provide for bilingual assistance for language minority citizens of this country. I am Juan Cartagena, General Counsel to the Community Service Society in New York City and a voting rights lawyer since 1981 who has used the promises of equal opportunity and full political access established in the Voting Rights Act to represent underserved communities in a number of states and neighborhoods, especially racial and language minorities.

The Community Service Society is an independent, nonprofit organization that for more than 160 years engages in social science research, advocacy, policy analysis, direct service and volunteerism to address the problems of poverty and strengthen community life for all. I direct a small public interest legal unit that engages in legal intervention strategies to supplement the advocacy work that we do at CSS. Since 1989 CSS has used the Voting Rights Act and other legal norms to benefit our most marginalized

communities by ensuring the full and fair representation of the City's poorest neighborhoods, especially African American and Latino voters.¹

¹ The Community Service Society has focused heavily on nonpartisan voter registration, voter education and voter mobilization campaigns that have resulted in over 250,000 new voters in New York City alone. It supplements this street-level engagement in poor communities with legal advocacy which includes a number of lawsuits in the area of voting rights: In 1989 CSS successfully used the Voting Rights Act to stop the discriminatory purge of over 320,000 voters in United Parents Associations v. New York City Board of Elections. Subject to the State's non-voting purge, CSS proved that the law's application had an unlawful, discriminatory effect as Black and Latino voters were 32% more likely to be purged for non-voting. The National Voter Registration Act of 1993 eventually superseded and eliminated New York's non-voting purge. In 1990 CSS used a state law challenge to enforce the Governor's Executive Order to facilitate agency-based voter registration, particularly in agencies serving poor communities in 100%VOTE v. New York State Board of Elections. In 1995 CSS sued in state court to fully implement voter registration in mayoral agencies in Disabled in Action v. Giuliani with the courts only upholding the right of the Commissioner of the NYC Voter Assistance Commission to obtain annual reports on compliance. Starting in 1995 CSS litigated a number of cases under the National Voter Registration Act of 1993 ("NVRA") to ensure that voter registration was fully implemented in agencies that service poor persons, thereby benefiting Black and Latino neighborhoods: National Congress for Puerto Rican Rights v. Sweeney (successfully forced the NY State Department of Labor to provide voter registration at Unemployment Insurance offices reaching 80,000 applicants per year); League of Women Voters v. Merrill (suit in New Hampshire to force the implementation of the NVRA; Congress instead passed a special law to exempt New Hampshire from compliance, thereby mooted our suit); Disabled in Action v. Hammons (suit seeking full NVRA compliance in every setting where Medicaid applications are processed, resulted in a partial victory that applied only to public hospitals); Cartagena v. Hooks (successful suit in New Jersey to force access to public records to demonstrate faulty NVRA compliance); Brenda K. v. Hooks (successful suit in New Jersey to force NVRA compliance for persons with mental disabilities – many of them on fixed incomes). In 1997 in Diaz v. Silver CSS handled an appeal to the U.S. Supreme Court on a constitutional challenge to the 14th Congressional District in New York City currently represented by Congresswoman Nydia Velázquez.

At present, CSS is co-counsel to a Voting Rights Act and constitutional law challenge to New York's felon disenfranchisement law in Hayden v. Pataki (along with the NAACP Legal Defense Fund and the Center for Law & Social Justice). The case affects over a hundred thousand persons currently incarcerated and on parole for felony convictions – the bulk of them Black and Latino and New York City residents. The Hayden case has recently been consolidated on appeal with Muntaqim v. Coombe and was heard before a full *en banc* court on June 22, 2005, on the limited issue of whether Section 2 of the Voting Rights Act can challenge state felon disenfranchisement laws. Our efforts to assist persons with felony convictions to renew their participation in the

The focus of my remarks today will be in support of the reauthorization of Section 203 of the Voting Rights Act especially as it addresses the concerns of Latino communities in New York City with a particular emphasis on the voting rights of Puerto Rican voters. Additionally, in light of my litigation background and research on Puerto Rican communities in New Jersey, I will also take this opportunity to share my observations on the need for Section 203 reauthorization in that State as well.

The position of the Community Service Society in this regard is clear: With our years of experience in registering the poor and mounting legal challenges to institutional barriers to full political participation, we strongly support bilingual voting assistance as a valid and efficient policy that promotes democracy.

political process resulted in a new policy memorandum in 2003 from the New York State Board of Elections that simplified the process of reintegrating former registered voters back on the rolls once they've completed all their criminal justice supervisory requirements that emanated from their prior convictions.

CSS has also used legal advocacy to address a number of Election Day matters that hinder the rights of African-American and Latino voters to fully exercise the franchise. Along with members of the New York Voting Rights Consortium (a coalition of select legal defense funds that address voting rights issues in minority communities in NYC), CSS was directly engaged in Election Protection efforts in the November 2004 general elections helping to document deficient bilingual assistance compliance for Latinos, unfair policies and breakdowns in the processes that handle absentee ballots, and the total failure of the NYC Board of Elections to properly notify voters of their assigned polling place. In years prior to 2004, CSS along with the Consortium has called for increased monitoring of NYC elections and increased attention to faulty election machine breakdowns in minority neighborhoods.

Finally, CSS was heavily engaged in the advocacy efforts to ensure a fair redistricting plan for the New York City Council in 1992 – including advocacy before the Department of Justice regarding Section 5 preclearance of this plan. CSS was the only independent agency, outside of the City's Districting Commission, to advance a full and detailed redistricting plan, which led to the adoption of additional districts that allowed the election of an unprecedented number of Black and Latino candidates. CSS has weighed in on various other voting changes under the Section 5 preclearance regulations of the Department of Justice.

There are numerous good policy reasons that warrant the continuation of the bilingual assistance provisions of Section 203 that allow language minority citizens an equal opportunity to vote. I will summarize them here now and elaborate below:

Section 203 is viable and necessary in 2005 because the full participation of Latino language minority citizens has yet to be achieved and, equally important, since the last renewal of Section 203 in 1992, New York and New Jersey have required aggressive enforcement activity to force compliance from both the Department of Justice and private attorneys general. As a result, Latino communities in both jurisdictions have yet to reap the full benefits that Congress devised in their favor.

Section 203 is required to address the unique needs of our country's citizens from Puerto Rico.

Section 203's guarantees promote responsive government -- a government that is in sync with the changing demographics of our times; a government that is open and inclusive. Its renewal represents a fair and reasonable expenditure of government resources to accomplish the promise of equal opportunity for this country's most cherished right: the right to vote.

Section 203 is devised in a way that automatically readjusts itself in response to changing migration patterns within our respective states. Accordingly, its coverage formula targets mandated assistance efficiently. The language characteristics of Latino citizens today warrant continued Section 203 coverage. Indeed, CSS supports a lowering of the numerical threshold for Section 203 coverage from 10,000 to 7,500 language minority citizens and also supports the use of newer Census Bureau data to adjust coverage in between decennial Census cycles.

Section 203 will provide bilingual oral assistance at a time when many jurisdictions are undergoing significant changes in election apparatus under the Help America Vote Act while simultaneously continuing the practice of translating complex legal jargon in public referenda into a language that is more accessible to many language minority citizens.

SECTION 203 IS VIABLE AND NECESSARY IN 2005

For Latino citizens, the important work that Congress began to benefit language minorities in 1975 and in the 1992 amendments remains unfulfilled. This alone justifies an extension of Section 203.

Congressional policy under the triggering provisions that lead to Section 5 and Section 4(f)(4) coverage hinges on disparities in voter registration and voter turnout along with the presence of a test or device for voting. Section 203 coverage is pegged on a critical mass of Limited English Proficient language minority voters whose illiteracy rate is higher than the national average.

A number of indicators demonstrate that for Latino voters Spanish dominance is still an identifiable phenomenon and registration and turnout rates of the *eligible* Latino voting population is still way behind their White and Black counterparts. Add to this the extremely low number of Latino elected officials, commensurate with their share of the citizen population and the conclusion is inescapable: bilingual assistance is still viable and necessary in today's political environment. In numbers well above the national average 75% of Latinos in the U.S. speak a language other than English at home – the

national average is 18% -- and invariably that language is Spanish (see discussion below). Survey data in 2002 on Latino voters² corroborates these general findings to show that nearly a quarter (23%) of registered Latinos identify Spanish as their primary language and indicate that they speak little to no English. For the November 2004 election both the number of Latinos registered to vote (9.3 million) and the number of Latinos who cast ballots (7.6 million) evidenced significant increases compared to 2000. In both registration and turnout rates Latinos were lower than their White or Black counterparts according to a 2005 report commissioned by the Pew Hispanic Center.³ The report concluded that only 47% of the eligible Hispanics turned out to vote compared to 67% of Whites and 60% of Blacks, attributing most of the difference to registration differentials. The Census Bureau's Current Population Survey data for 1996 confirms similar trends: Of the citizen, voting age population in November 1996, 59% of Hispanics were registered (44.3% voted); 66.5% of Blacks were registered (53% voted) and 73% of Whites were registered (60.7% voted).⁴ Equally important, the share of Latino office-holders among all elected positions in the U.S. has led one political scientist to conclude that for Latinos the Voting Rights Act has "failed to meet its goals of enhancing minority

² The Pew Hispanic Center / Kaiser Family Foundation National Survey of Latinos: The Latino Electorate released in October 2002 surveyed 2,929 Latino adults in April and June of 2002. See www.pewhispanic.org

³ Roberto Suro, Richard Fry & Jeffrey Passel, Hispanics and the 2004 Election: Population, Electorate and Voters. Pew Hispanic Center. Washington D.C. 2005. See www.pewhispanic.org. The report relies predominately on the Census Bureau's Current Population Survey data.

⁴ Lynne M. Casper & Loretta E. Bass, "Voting and Registration in the Election of November 1996," Census Bureau, p. 5, Current Population Reports, July 1998. The report relies exclusively on Current Population Survey data; figures for Whites and Blacks are for non-Hispanic Whites and non-Hispanic Blacks, respectively.

representation relative to population.”⁵ The conclusion was reached after calculating the number of Latino elected officials among the 493,830 such offices that exist in the country to find that Latinos compose only 0.9% of the officeholders – well below their share of the adult citizen population.

It is generally accepted that both voter registration and voter turnout is strongly correlated with certain socioeconomic factors including education and income. Data from the 2000 Census clearly demonstrate that Latinos lag behind national averages in each of these critical areas.⁶ Of the population over 25 years of age, over 80% are high school graduates or more and 24% have a bachelor’s degree or higher. Nationally, Latinos are at 52% and 10% on each of these measures, respectively. For Puerto Ricans and Dominicans (two Latino national origin groups that are prevalent in both New York and New Jersey) the figures are as still considerably below the national average: 63% of Puerto Ricans have a high school diploma or more schooling (about 13% of them have a college degree or more); 51% of Dominicans are high school graduates or more (and 11% of them have a bachelor’s degree or higher). The 2000 Census also reported poverty rates as follows for all ages: Total population: 12.4%; Latinos: 22.6%; Puerto Ricans: 25.8%; and Dominicans 27.5%.

Finally, as set forth below, in both New Jersey and New York, the promise of full compliance with Section 203’s guarantees is still unmet and requires additional attention.

⁵ Louis DeSipio, “Latino Voters: Lessons Learned and Misunderstood,” The Unfinished Agenda of the Selma-Montgomery Voting Rights March, pp. 138-139. Landmarks in Civil Rights History, Black Issues in Higher Education.

⁶ The data in this paragraph are derived from the Census Bureau: Roberto R. Ramirez, We the People: Hispanics in the United States. Census 2000 Special Reports, issued December 2004.

New Jersey

The struggle to provide access to language minority voters of Spanish heritage in the State of New Jersey has a long history in the Garden State – all of it initiated as a result of the efforts of civil rights advocacy organizations and, recently, the U.S. Department of Justice to enforce the guarantee of the right to vote for citizens who have yet to fully master the English language. In short, New Jersey's Latino voters have rarely, if ever, enjoyed the full benefits promised in Section 203 – such has been the state of noncompliance.

Over 30 years ago, in 1973, a federal court in Newark ordered election officials in Hudson and Essex counties to comply with Section 4 (e) of the Voting Rights Act by providing bilingual (Spanish and English) voter registration forms and other materials and assistance to the mostly Puerto Rican populations of those counties at that time in the case of Marquez v. Falcey.⁷ With the subsequent passage of Section 203 additional counties in the State were required to provide written and oral assistance to the growing Latino population of New Jersey. In the 1990's these included Essex, Hudson, Middlesex, Passaic and Union counties. In this decade, Bergen and Cumberland counties were added in recognition of the growing population of Latinos in the State.⁸

⁷ Civil No. 1447-73 (D.N.J.) (Consent Decree, Oct. 9, 1973).

⁸ Jurisdictions Covered under Sections 4(f)(4) and 203(1) of the Voting Rights Act of 1965, as amended, 28 C.F.R. app. §55 (2004).

And yet enforcement of these language minority protections is left to the federal courts. In 1989, a federal court in Vargas v. Calabrese⁹ issued a Consent Decree to increase the availability of Spanish speaking district board members at the polls in Hudson County and to ensure that new procedures and complaint forms for voters being challenged were available in Spanish. In the late 1990's the U.S. Department of Justice sued Passaic county and city election officials (United States v. Passaic City) for their failure to comply with the bilingual provisions of the Voting Rights Act which resulted in a comprehensive Consent Decree that forced election officials to engage in recruitment of bilingual election workers, publish election notices and materials in Spanish, and provide voter assistance to Spanish-speaking voters.¹⁰

The experience of language minority voters in Passaic County is especially egregious and speaks to the continued need to renew both Section 203 *and* the federal observer provision of the Voting Rights Act. According to the materials prepared for the Northeast Regional Hearing of the National Commission on the Voting Rights Act,¹¹ between 1999 and 2004, a total of 454 federal election observers were deployed in

⁹ Civil No. 85-4725, (Consent Decree issued January 3, 1990). For background on this litigation, *see*, Vargas v. Calabrese, 634 F.Supp. 910 (D.N.J. 1986); 714 F.Supp. 714 (D.N.J. 1989); 750 F.Supp. 677 (D.N.J. 1990).

¹⁰ United States v. Passaic City, No. ____ (D.N.J. issued Consent Decree June 1999), available at www.usdoj.gov/crt/voting/sec_203/documents/passaic.htm (last visited Jan. 12, 2005).

¹¹ The National Commission on the Voting Rights Act, chaired by former U.S. Senator Charles Mathias and former Assistant Attorney General for Civil Rights, Bill Lann Lee, is a project of the Lawyers' Committee for Civil Rights Under Law (www.votingrightsact.org) with the goal of gathering testimony from around the country and submitting it to this Congress for its consideration as it debates the reauthorization of the Voting Rights Act. The author was a Guest Commissioner for the Northeast Regional Hearing of the Commission which was held on June 14, 2005.

Passaic County in 18 different elections to monitor compliance with Section 203, ensure that Latino voters were not intimidated and that translated materials were available in sufficient supply. This massive and necessary federal engagement was the culmination of a federal investigation and Department of Justice litigation that targeted the County's following municipalities: Passaic, Paterson, Clifton, Haledon and Prospect Park. As recently as 2003, municipal officials in Clifton were still questioning the need to comply with federal law and provide bilingual assistance to voters.¹²

New York

The historical development of New York's bilingual assistance efforts for Latino voters is set forth below in the section on Puerto Ricans and Section 203. But recent data on Latinos and voting in New York documents depressed levels of participation in the City. A recent report on Latino political participation noted some increases in voter registration rates from 1990 to 2000 but still concluded that "Electoral participation is generally low among Latino registered voters. A million and a half voting age Latinos live in New York City, but only about 700,000 Latinos are registered to vote and only about 455,000 regularly participate in elections."¹³ This report noted that political participation among Latinos was actually lower in concentrated Latino neighborhoods in the City with few exceptions and it concluded that "to the extent that [these voters]

¹² Amanda Gerut, "Clifton Seeks Proof of Need for Translators," The Record, Feb 12, 2003.

¹³ John Mollenkopf & Luis Miranda, "Latino Political Participation in New York City: 2002." Hispanic Federation, March 2002.

continue to rely on Spanish, political campaigning conducted in English does not reach them as directly.”¹⁴

The prevalence of Spanish language use at home and corresponding lower proficiency in English is clearly a phenomenon in New York City as well.¹⁵ For Latinos nationally, the percentage of persons who speak English less than “very well” and who report that Spanish is spoken in their homes is 40.6%. In New York City 51% of Latinos who speak Spanish at home report lower proficiency levels in English. It is important to emphasize again that the measure of speaking English less than “very well” is the measure used by the Census Bureau, along with other indicia, to certify Section 203 coverage. Family literacy centers in New York City – indeed, all places where adults can try to learn English – are in very short supply with demand far exceeding supply.¹⁶

Three counties in New York City are covered under Section 5 of the Voting Rights Act. Materials prepared for the Northeast Regional Hearing of the National Commission on the Voting Rights Act (referred to above) demonstrate a pattern of Section 5 objections interposed by the Department of Justice, especially in redistricting plans at all levels of government, that documents the City and State’s failure to comply

¹⁴ Id. at p. 18.

¹⁵ New York City data reported in this paragraph comes from the 2000 Census as analyzed by the Queens College Department of Sociology. Nina Bernstein, “Proficiency in English Decreases Over a Decade,” *The New York Times*, 19 January 2005. National data is derived from the Census Bureau: Roberto R. Ramirez, We the People: Hispanics in the United States. Census 2000 Special Reports, issued December 2004.

¹⁶ Nina Bernstein, “Proficiency in English Decreases Over a Decade,” *supra*.

with the mandates of equal opportunity in the political process for Latinos.¹⁷ Moreover, the inability to fully comply with Section 203 requirements for Latino voters resulted in the assignment of federal observers in a number of elections since the 1992 amendments to Section 203. Of the multiple times federal observers were present the following elections were identified specifically because of concerns over Latino voters and bilingual assistance: September 2001 (Kings and New York Counties); October 2001 (Bronx County); September 2004 (Queens County).

SECTION 203 AND PUERTO RICANS LIVING IN THE UNITED STATES

In 1917 Congress declared Puerto Ricans citizens of the United States.¹⁸ This fact alone speaks volumes about how the ultimate badge of citizenship, voting, must be analyzed separately for Puerto Ricans who come to reside in the United States. Congress established U.S. citizenship for Puerto Ricans with no concern, requirement, or test for English proficiency.¹⁹ Indeed, the historical and present day record of military service by

¹⁷ A cursory review of the Section 5 letters denying preclearance (available from the U.S. Department of Justice, Voting Section) demonstrates a number of instances where election authorities were stopped from implementing changes that would hinder equal opportunities for Latino voters in New York City. November 1996: objection to the replacement of elected community school board members with appointees in a heavy Latino school district; June 1992: objection to Assembly redistricting plan as it affected Latino voting strength; June 1991: objection to City Council councilmanic redistricting plan for its effects on Latino voters. Plus numerous other instances before the last amendments to Section 203.

¹⁸ Re-codified at 8 U.S.C. § 1402.

¹⁹ Decades earlier, albeit in a different context and for different reasons, the United States granted U.S. citizenship to thousands of Mexicans in what is now the American Southwest without a prerequisite of English proficiency upon the adoption of the Treaty of Guadalupe Hidalgo in 1848.

Puerto Ricans on behalf of the United States is also one that is not predicated on English proficiency.²⁰

Equally important, however, are the policies adopted by Congress and the Executive Branch to address language issues in Puerto Rico since 1898 when American troops first entered the island. In 1965 a three-judge district court in New York in United States v. County Board of Elections of Monroe County, New York, 248 F.Supp. 316 (W.D.N.Y. 1965) fully understood the breadth of Congress' power over U.S. territories under Article IV of the Constitution, the anomaly of federal language policies towards Puerto Rico and the right to vote of Puerto Ricans once they migrated to the States. The court confronted the claims of a Puerto Rican woman educated through the 9th grade in Puerto Rico who sought to register to vote in Rochester, New York, despite New York's English literacy requirement for voting. I set forth a number of excerpts from Judge Kaufman's opinion to give this Congressional Subcommittee a context for the positions I advance herein for Puerto Rican voters:

“[B]y means of this all pervasive Article IV power Congress controlled the very structure and existence of Puerto Rican life and, for over half-century, effectively shaped its institutions in accordance with Congress' own territorial policies. But, throughout most of this period, Congress, cognizant of evolving principles of international law, recognized the inherent right of a people and the wisdom of a foreign policy which sought to preserve the territory's culture and the integrity of its mother tongue . . .

While in the earlier years of the territorial administration the Commissioners [of Education appointed by the President of the United States] decided that the English language would be the medium of instruction in these schools, it was soon apparent that the attempt to 'Americanize' the inhabitants of the newly acquired territory by the artificial introduction of a foreign language into its

²⁰ It has been generally reported in Puerto Rico that Puerto Ricans in the armed services receive a higher proportion of medals and recognition for valor, per capita, than any State in the Union.

educational processes was not only impracticable, but disadvantageous to this country's relations with other Latin American nations. . .

This educational policy, deliberately determined by the United States, is at the core of the problem that gives rise to the instant action. *Specifically, we are confronted with American citizens of Puerto Rican birth or residence who have been encouraged by our government's Puerto Rican educational and foreign policy to use Spanish as the means of communication in both public and private life. Moreover, since the Jones Act of 1917, American citizens of Puerto Rican birth have been permitted free and unrestricted migration to the mainland of the United States. As a result they are enabled to become residents of any state, 'there to enjoy every right of any other citizen of the United States, civil, social and political . . .'* This policy, and peculiarly mid-twentieth century influences, gave rise to a phenomenon theretofore unknown in the history of American immigration. During the decade from 1951 through 1960, when Puerto Rican migration to the continental United States was at its height there developed a considerable circular movement of immigrants back and forth between New York City, the heart of the mainland Puerto Rican population, and San Juan, Puerto Rico. The reason . . . stemmed from the fact that: 'The links between the New York Puerto Ricans and the island Puerto Ricans are close and complex, and quite different from the relationship of earlier migrant groups to their homeland. Puerto Rico is part of the United States, and there is no control over movement between the island and the mainland.' . . .

The Congressional policies of encouraging the use of Spanish as the native tongue of Puerto Rican-Americans and unrestricted travel between mainland United States and Puerto Rico, have caused a very substantial Spanish-speaking population . . . to become residents of New York State. *It is this body of American citizens whose plight results from American policy, who, in an attempt to integrate their community into the mainstream of American life and to improve their economic and social position by making their presence felt in government councils, are faced with the requirement imposed by the State of New York that one must read and write the English language in order to register to vote.*"²¹

As important as this opinion is in the historical development of full and equal access to the voting booths for language minority citizens, it is equally important to recognize that the conditions that led to this judicial pronouncement have not abated in any major way in the last 40 years:

²¹ United States v. County Board of Elections of Monroe County, New York, supra, 248 F.Supp. at 319-320 (citations omitted; emphasis added).

1) Puerto Rico is still an unincorporated territory of the United States subject to plenary Congressional authority under Article IV. Spanish is still, by far, the dominant language of most of its residents and the language of instruction in its public schools. Census 2000 data for Puerto Rico reveal a very large proportion of the population that speaks English less than “very well” and a corresponding portion of the residents that are monolingual in Spanish.²² Of the over 3.5 million residents of Puerto Rico over the age of five, 85% speak Spanish and over 1.355 million do not speak English at all representing 45% of all Spanish-speakers and 38% of all persons in that age group. When data is analyzed on the basis of who speaks English less than “very well” in Puerto Rico (the measure used by the Census Bureau for Section 203 coverage) the numbers are stark: over 2.5 million persons, 72% of all persons in this age group (and 84% of all Spanish speakers) report their ability to speak English as less than “very well.”

Debates in the 1990’s over the island’s own language policies resulted in survey findings by researchers Kenji Hakuta, Leonni Huddy and David Sears²³ that documented extremely strong loyalties to the Spanish language among Puerto Rico’s residents: 95% of respondents were in favor of continuing government operations in Spanish; only 25% of respondents considered their English skills to be good or excellent, and only 11% answered that they use English as part of their work duties.

²² The data in this paragraph are the author’s calculations from the Census 2000 Summary File 4 (SF4) for persons over the age of 5 in Puerto Rico (native and foreign born).

²³ The survey was commissioned by the Ateneo Puertorriqueño and released by Hispania Research on January 9, 1993. Pedro Juan Rua, *La encrucijada del idioma* [Language at a crossroads], p. xii. Editorial Instituto de Cultura Puertorriqueña. San Juan 2002.

2) Puerto Ricans in the United States still maintain very strong ties to the Spanish language -- less than in the 1960's but strong nonetheless today.²⁴ Put in another way, a sizeable portion of Puerto Ricans in the United States is not proficient in English. The 2000 Census reveals that 18% of the nation's population age five and over speak a language other than English at home -- for 60% of them it was Spanish. Among Latinos, 75% of them spoke a language other than English at home -- in virtually all cases it was Spanish. Over 40% of all Latinos reported speaking English less than "very well" -- the measure used by the Census Bureau that pegs compliance with the bilingual assistance provisions of Section 203. The proportion dropped to 26.7% for Puerto Ricans. In New York and New Jersey²⁵ the proportion of Puerto Ricans who speak English less than "very well" is slightly higher than the national average for Puerto Ricans in the U.S.: 27.4% of New York State's Puerto Rican community speaks English less than "very well" and the corresponding figure for New Jersey is 28.7%.

3) Census population figures for 2003 estimate the Puerto Rican population in the United States at 3.7 million, which will soon match and exceed the 2000 Census figures for the population of the island (3.8 million).²⁶

4) Puerto Rican migration between Puerto Rico and the United States is still characterized by the circular patterns noted in the Monroe County decision in 1965.

²⁴ The data in this paragraph are derived from the Census Bureau: Roberto R. Ramirez, We the People: Hispanics in the United States. Census 2000 Special Reports, issued December 2004.

²⁵ The data in this paragraph for New York and New Jersey are the author's calculations from the Census 2000 Summary File 4 (SF4) for persons over the age of 5 in those States.

²⁶ The estimate is from Census Bureau's American Community Survey 2003 Data Profile, Table 1 General Demographic Characteristics estimating 3,717,941 Puerto Ricans in the U.S.

Professor Jorge Duany noted that in the 1980's and 1990's mass emigration from Puerto Rico resumed in large numbers while return migration continued unabated, the hallmarks of circular migration: "In short, contemporary Puerto Rican migration is best visualized as a transient and bidirectional flow (a 'revolving door' movement), rather than as an irrevocable and unilateral displacement."²⁷ Migration patterns for the Puerto Rican population are important indicators to consider as Congress tackles the question of Section 203 reauthorization. Since migration is bidirectional (and has been for some time) the flow of Puerto Ricans who speak English less than "very well" in the island – 72% of all persons over five years of age – with the same category of Puerto Ricans in New York and New Jersey (whose difficulty with English is higher than the national average for all Puerto Ricans) is an important factor to consider in this debate.

PUERTO RICANS IN NEW YORK CITY²⁸

New York City has been considered the epicenter of Puerto Rican life in this country. The proportion of Puerto Ricans living in New York City has changed, however, in the last 40 years: In 1960 a total of 757,231 Latinos lived in New York City, over 80% of which were Puerto Rican; in 1970 a total of 1,202,281 Latinos lived in the

²⁷ Jorge Duany, Puerto Rican Nation on the Move: Identities on the Island and in the United States, p. 211. University of North Carolina Press. Chapel Hill 2002.

²⁸ A more detailed discussion of this section, especially the development of Puerto Rican politics and its relationship to the Voting Rights Act of 1965, is found in Juan Cartagena, "Latinos and Section 5 of the Voting Rights Act: Beyond Black and White," 18 National Black Law Journal (No.2) 201 (2005). www.votingrights.org/resources/ (last visited 4 Nov. 2005) (hereafter "Cartagena 2005").

City, two-thirds of which were Puerto Rican.²⁹ In 1980 1.4 million Latinos lived in the City including 869,500 Puerto Ricans; in 1990 Puerto Ricans numbered almost 897,000 out of 1.8 million Latinos and in 2000 Puerto Ricans represented 36% of all Latinos in the City (789,200 out of 2.2 million).³⁰ Although the Puerto Rican share of Latino population in the City decreased, it is important to note that over 789,000 Puerto Ricans is nonetheless a sizeable force in the City and easily the largest ethnic group in all of New York City.³¹ By comparison, the 2000 Census documented that there were still over one million Puerto Ricans living in New York State, but with Florida (with 482,027) and New Jersey (with 366,798) growing more rapidly.³²

The first Puerto Rican ever elected to public office in the United States was Oscar García Rivera who was elected to the New York Assembly in 1937 on the Republican and American Labor Party ticket. But it took decades after that break through for the Puerto Rican community to regain a foothold in national American politics in the 1970's with the election of Herman Badillo, a Democrat, as the first Puerto Rican elected to Congress in 1971. By the 1990's and into this decade New York's Puerto Rican representation in Congress was increased only by one with the election in 1992 of Nydia Velázquez, Democrat, representing parts of New York, Kings and Queens counties.

²⁹ Gabriel Haslip-Viera, "The Evolution of the Latino Community in New York City: Early Nineteenth Century to the Present," in Latinos in New York: Communities in Transition, Gabriel Haslip-Viera & Sherrie L. Bayer, Eds., University of Notre Dame Press, pp. 14-15. Notre Dame 1996.

³⁰ Maite Junco, "Adiós, 'Puerto Rican,'" The Daily News, 14 March 2004.

³¹ Angelo Falcón, "De'tras Pa'lante: The Future of Puerto Rican History in New York City," PRLDEF Institute for Puerto Rican Policy. New York, January 2001.

³² Roberto R. Ramirez, We the People: Hispanics in the United States. Census 2000 Special Reports, December 2004, Table 1, p.4.

Congressman José Serrano, Democrat, represents the congressional district in the Bronx that went from Herman Badillo to Roberto García to Mr. Serrano.³³

In 1965 an entrenched impediment to the full enfranchisement of African Americans and a clear target of the VRA was the use of literacy tests. Despite the Supreme Court's pronouncement that literacy tests were facially constitutional,³⁴ the danger of the tests in the Deep South was also in their discriminatory application. As a result, the coverage formula for Section 5's protections specifically included literacy tests among the "tests or devices" that were used to trigger the VRA's most exacting provisions. Section 5's initial geographic scope was limited to a small number of states and jurisdictions, all of them in the South.³⁵ In 1965, however, the discriminatory use of literacy tests, as a prerequisite for voting was not within the exclusive domain of Southern states. New York was a prime example.

New York's literacy test requirement already had a history of discriminatory use against vulnerable populations of the state. In general, historians have identified Southern and Eastern European immigrants as the target for literacy tests' exclusionary function in the area of immigration.³⁶ In New York the 1921 state constitutional

³³ Congressman Luis Guitiérrez from Chicago is also Puerto Rican. I do not include the Resident Commissioner from Puerto Rico in this count because that position is established as a non-voting member of Congress.

³⁴ *Lassiter v. Northampton County Bd. Of Election*, 360 U.S. 45 (1959).

³⁵ Alaska, originally covered under Section Five's protections, successfully sued to be exempted, but was recovered with the subsequent amendments to the VRA. *See*, S. REP. 94-295, 1975 U.S.C.C.A.N. 774, 779, n. 5.

³⁶ The tests "provided a highly 'respectable' cultural determinant which could also minister to Anglo-Saxon sensibilities." John Higham, *Strangers in the Land: Patterns of American Nativism, 1860 – 1925*, Atheneum, p.101. New Brunswick, 1985 (1955).

provision mandating literacy tests for voting was equally exclusionary. As early as 1915 the debates by constitutional delegates established its clear racial purposes.³⁷

By mandating English literacy exclusively, New York's literacy test impeded the full participation of Puerto Rican migrants who used the courts to challenge its discriminatory nature. In Camacho v. Rogers, 199 F.Supp. 155 (S.D.N.Y. 1961), Puerto Rican voters tested the limits of the State's literacy test when applied to citizens from Puerto Rico. Mr. José Camacho was schooled in Puerto Rico in Spanish – itself a feat of decades of Puerto Rican nationalistic struggle against the failed attempts by the United States to Americanize the public schools of the island.³⁸ He voted in Puerto Rico before migrating to New York but was unable to demonstrate literacy in English under New York law. The case was dismissed but the issues raised in Camacho v. Rogers became the focal point of Puerto Rican political activism for years to come.

As the VRA was winding its way through Congress the Puerto Rican community in New York was intent in finding a federal legislative solution to the issues raised in Camacho v. Rogers. The ultimate result of this effort was Section 4(e) of the Voting

³⁷ One New York constitutional delegate noted: "More precious even than the forms of government are the mental qualities of our race. They are exposed to a single danger, and that is that by constantly changing our voting citizenship through the wholesale but necessary and valuable infusion of Southern and Eastern European races, whose traditions and inheritances are wholly different from our own, without education, we shall imperil the structure we have so laboriously struggled to maintain. The danger has begun. It is more imminent than ever before. We should check it." Record of the Constitutional Convention of the State of New York 1915, Begun and Held at the Capitol in the City of Albany on Tuesday the Sixth Day of April, Vol. III, p. 2912, J.B. Lyon Co. Albany 1915.

³⁸ In addition to the Monroe County case, supra, see Aida Negrón de Montilla, Americanization in Puerto Rico and the Public School System 1900 – 1930, Editorial Universitaria, Universidad de Puerto Rico. San Juan 1975.

Rights Act of 1965³⁹ which effectively provided that citizens educated in, and achieving a 6th grade education from an American flag schools in which the language of instruction was other than English, could not be denied the opportunity to registered to vote by an English only test or qualification.

With bipartisan support from Senator Robert Kennedy and Senator Jacob Javits, Section 4(e) was touted as an important remedy to the exclusion of Puerto Rican voters who, through Congress' deliberate policies, were schooled substantially in a language other than English, but who were also required under New York constitutional law to demonstrate proficiency in English before exercising the franchise. Indeed, Senator Javits made it a point to grant his full support for the amendment despite his political observation that his party may not stand to benefit from an electorate that is likely to vote for Democrats. His support of the measure within the Republican Party was not an isolated act as then Congressman (and later Mayor) John Lindsay also endorsed the Puerto Rican amendment. Clearly, the injustices inherent in removing the barriers to full electoral participation by Puerto Rican voters led these political leaders to action despite partisan interests.

Puerto Rican activists also participated in this debate through the testimony of three community leaders who supported Section 4(e): Herman Badillo, Irma Vidal Santaella and Gilberto Gerena Valentín.⁴⁰ Their testimony⁴¹ was clear: New York's

³⁹ 42 U.S.C. § 1973b(e).

⁴⁰ Mr. Badillo, as noted above, became the first Puerto Rican elected to Congress and represented the Legion of Voters before Congress in 1965. Ms. Vidal Santaella, a former justice on the New York County Supreme Court and was the first Puerto Rican woman admitted to the bar of New York State (www.uvm.edu/~culture/site/social_action.html (last visited on 26 Feb. 2005)). She also represented the Legion of Voters in 1965 before

English only literacy test requirement was discriminatory on its face *and* as applied to Puerto Ricans in the City. Estimates were offered that of 730,000 Puerto Ricans in the City of all ages, 150,000 registered to vote but close to 330,000 were prevented from registering. Accounts were given about how literacy test certificates would “suddenly disappear,” causing delays of hours, if not the entire day, to replace them, or how basic supplies like pencils would be missing whenever Puerto Ricans sought to take the test.⁴² Finally the witnesses sought to defuse the “myth in our State of New York that a citizen can be an intelligent, well-informed voter only if he is literate in English.”⁴³

New York State challenged the constitutionality of Section 4(e) in the U.S. Supreme Court. The court in Katzenbach v. Morgan, 384 U.S. 641 (1966), upheld Section 4(e) as a valid exercise of Congressional authority under the Fourteenth Amendment. In doing so it unequivocally recognized the purpose of Section 4(e) as an exclusive protection for Puerto Rican voters:

Congress. Mr. Gerena-Valentin was a renowned community activist who organized the massive Puerto Rican mobilization for the Rev. Martin Luther King, Jr.’s Poor People Campaign in 1968 (Andrés Torres, “Political Radicalism in the Diaspora – The Puerto Rican Experience,” in Andrés Torres & Jose E. Velázquez, Eds. The Puerto Rican Movement, Temple University Press, p. 5. Philadelphia 1998), became a New York City Councilman from the Bronx in the 1970’s and was the lead plaintiff in Gerena-Valentin v. Koch, 81 Civ. 5468 (KTD), consolidated with Herron v. Koch, 523 F.Supp. 167 (E.D.N.Y. 1981), see, Gerena-Valentin v. Koch, 554 F.Supp. 1017, 1018-1019 (S.D.N.Y. 1983), one of the earliest and most important cases in New York City regarding injunctive relief under Section 5. In the 1965 testimony he represented the National Association of Puerto Rican Civil Rights.

⁴¹ Voting Rights: Hearings on H.R. 6400 Before the Subcommittee No. 5 of the House Committee on the Judiciary, 89th Cong., 1st Sess. (1965) at 508-517.

⁴² Id. at 511.

⁴³ Id. at 510.

[Section] 4(e) may be viewed as a measure to secure for the Puerto Rican community residing in New York nondiscriminatory treatment by government – both in the imposition of voting qualifications and the provision or administration of governmental services, such as public schools, public housing and law enforcement.⁴⁴

Thus, the 1965 version of the VRA contained powerful and necessary limitations on state power embodied in Section 5’s coverage of the Deep South, nationwide prohibitions on voting discrimination under Section 2,⁴⁵ and discrete protections against discrimination against Puerto Rican voters because of their unique language minority status under Section 4(e).

A number of federal court decisions in New York under Section 4(e) underscored how New York’s literacy test and English only elections worked to discriminate against eligible voters, specifically Puerto Rican voters.⁴⁶ In Lopez v. Dinkins, 73 Civ. 695 (S.D.N.Y. Feb. 14, 1973), Puerto Rican voters used Section 4(e) to secure assistance in Spanish at the polls.⁴⁷ In Coalition for Education in District One v. Board of Elections, 370 F.Supp. 42 (S.D.N.Y. 1974), the federal court was compelled to overturn a school board election because of the city’s failure, *inter alia*, to provide adequate bilingual assistance to Puerto Rican voters. Both of these cases paved the way for the wholesale provision of bilingual assistance in the case of Torres v. Sachs, 381 F.Supp. 309 (S.D.N.Y. 1974). The court made two important findings. First it established that the

⁴⁴ Id. at 652.

⁴⁵ 42 U.S.C. § 1973.

⁴⁶ For a discussion on how Section 4(e) cases led to the recapture of three New York counties under Section 5 of the Voting Rights Act, see Cartagena 2005.

⁴⁷ See, Torres v. Sachs, 381 F.Supp. 309, 312-313 (S.D.N.Y. 1974).

City's "English-only election system constitutes a condition on the plaintiffs' right to vote based on their ability to 'read, write, understand, or interpret any matter in the English language' as presently proscribed by Section 4(e) *and* the 1970 Voting Rights Amendment."⁴⁸ This conclusion effectively supported the construction that English only elections were a "test or device" under the VRA – a critical legal interpretation at the time. Secondly, the court concluded that the right to vote requires meaningful access: "Plaintiffs cannot cast an effective vote without being able to comprehend fully the registration and election forms and the ballot itself."⁴⁹

In a broader context the benefits gained from Section 4(e) litigation reached all language minority voters throughout the country as it demonstrated the viability of creating comprehensive, bilingual alternatives to English-only electoral systems, and on a large scale. With over 668,000 Puerto Ricans in New York City in 1960 and close to 812,000 in 1970, the electoral reforms generated by Section 4(e) litigation inured to the benefit of hundreds thousands of other Latinos in the City alone. Torres v. Sachs and the other Section 4(e) cases outside of New York City,⁵⁰ in part, justified the full expansion of bilingual voting assistance to all language minorities in the 1975 VRA amendments that created Section 203, in the view of the House Committee on the Judiciary:

There is no question but that bilingual election materials would facilitate voting on the part of language (sic) minority citizens and would at last bring them into

⁴⁸ Id. at 312 (emphasis added).

⁴⁹ Id.

⁵⁰ In Chicago: Puerto Rican Organization for Political Action v. Kusper, 490 F.2d 575 (7th Cir. 1973); in New Jersey: Marquez v. Falcey, Civil No. 1447-73 (D.N.J. Oct. 9, 1973); in Philadelphia: Arroyo v. Tucker, 372 F.Supp. 764 (E.D. Pa. 1974); in New York State: Ortiz v. New York State Bd. of Elections, Civil No. 74-455 (W.D.N.Y., July 10, 1975).

the electoral process on an equal footing with other citizens. *The provision of bilingual materials is certainly not a radical step.* . . Courts in New York have ordered complete bilingual election assistance, from dissemination of registration information through bilingual media to use of bilingual election inspectors.⁵¹

The principles that led to the Congress' adoption of Section 4(e) in 1965 led to the adoption of Section 203 in 1975 and its amendments in 1992. The unique legal status of Puerto Rican citizens in the United States has not changed in the intervening period – nor have the principles enunciated by the federal courts, the U.S. Supreme Court, and this Congress. Section 203 effectively codified most of the previous legal foundation for ensuring electoral access to the Puerto Rican community, regardless of its language characteristics. Inasmuch as Puerto Ricans are still a vibrant and significant part of many of our neighborhoods in New York, New Jersey and elsewhere in the country, the promise of equal opportunity inherent in Section 203 must be extended. This is an additional reason to reauthorize the provisions of Section 203.

SECTION 203 PROMOTES A RESPONSIVE, INCLUSIVE GOVERNMENT AND
PROTECTS OUR FUNDAMENTAL RIGHT TO VOTE

⁵¹ Voting Rights Act Extension: Report from the Committee on the Judiciary together with Additional, Supplemental, Separate Views, 94th Cong., 1st Sess. (1975) at 24-25 (emphasis added).

The right to vote is considered a fundamental right in our democracy – and rightfully so. Among the rights we enjoy in this country voting is paramount because all other rights are “illusory” without its protection.⁵²

CSS is in fundamental disagreement with various organizations and political leaders who, in their quest to demonstrate that somehow English is in jeopardy in the United States, are prepared to deny the ballot to many language minority citizens. CSS has been on record⁵³ opposing proposed legislation that would declare English the only language that could be used to administer our election systems. English language proficiency within our poor and working class communities is often a function of resources – time, finances, transportation and availability of classes – that many deserving people do not fully possess. To deny full access to political participation on the premise that such a hard-line would force people to learn English makes a mockery of our democracy – this is especially so when so many proponents of so-called English as Official Language Laws fail to appropriate any additional dollars toward English language instruction.

In two separate U.S. Supreme Court cases addressing the issues we raise in this testimony – full access to political participation for language minority citizens, especially Puerto Ricans – the primacy of voting has been elevated above concerns of English

⁵² Wesberry v. Sanders, 376 U.S. 1, 17-18 (1964): “Other rights even the most basic are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of a people in a way that unnecessarily abridges that right.”

⁵³ David R. Jones (President and CEO of the Community Service Society) and Juan Cartagena “Statement of the Community Service Society of New York in Opposition to the Proposed English-Only Legislation before the U.S. Congress (H.R. 1005 & H.R. 123), May 1995 (on file with author). Mr. Jones had written in opposition to these laws as early as 1989.

language policy. In Katzenbach v. Morgan, supra, 384 U.S. 641, the majority opinion noted favorably that Congress in passing Section 4(e) of the VRA thought that the right to vote is too fundamental to deny on the chance that its denial would force citizens to learn English:

“Congress might have also questioned whether denial of a right deemed so precious and fundamental in our society was a necessary or appropriate means of encouraging persons to learn English, or of furthering the goal of an intelligent exercise of the franchise.”⁵⁴

In a previous decision, Justice Douglas, who wrote the majority opinion upholding the constitutionality of literacy tests in general,⁵⁵ wrote a dissenting opinion in Cardona v. Power, 384 U.S. 672, 675 (1966), that relied on the Equal Protection Clause and took issue with discriminating against literate voters who happen to be literate in Spanish only:

“[T]here is no rational basis – considering the importance of the right at stake – for denying those with equivalent qualifications except that the language is Spanish.”⁵⁶

Once again we urge this Subcommittee to remember the fundamental nature of the rights at stake in its deliberations.

Section 203, on the other hand, balances the nature of the rights at stake, tailors its guarantees with the changing demographics of our times and promotes an open and inclusive government.

⁵⁴ Id. at 654.

⁵⁵ Lassiter v. Northampton County Bd. Of Election, supra, 360 U.S. 45.

⁵⁶ Id. at 676.

SECTION 203 CAN BE IMPROVED BY LOWER ITS NUMERICAL THRESHOLD
AND ACCELERATING ITS COVERAGE DATES

In light of the issues raised above the Community Service Society supports a limited number of modifications to Section 203, which will improve its promise of providing equal opportunity for language minority voters. Lowering the numerical threshold from 10,000 limited English proficient, language minority citizens to 7,500 would go a long way towards providing assistance where needed. It is my understanding that such a modification would allow Latino voters in Camden County, New Jersey to reap the benefits of bilingual assistance in voting.

Similarly, allowing the use of the Census Bureau's American Community Survey data at 5-year intervals, before the traditional decennial census cycles, would provide for additional relief in language minority communities that undergo sharper demographic shifts. It is important to recognize that such a change in Section 203's coverage formula requires a corresponding appropriation to the Census Bureau to assure compliance with a full American Community Survey program in years to come.

SECTION 203 IS ESPECIALLY NEEDED NOW AS ELECTION SYSTEMS ARE
UPGRADED

The Help America Vote Act is slowly changing the face of polling booths throughout the country. Along with change comes confusion and uncertainty for many marginalized citizens who do not receive the benefit of timely notice, training and education. Oral assistance at polls is critical in this regard, especially for our language minority citizens. This also speaks to the need to continue Section 203 coverage.

Finally, written translations for citizens who are still Spanish dominant is very important as elections consistently place referenda on the ballot on a number of important public questions. The language used on these referenda can be a challenge even for English proficient voters – the requirement that they be translated into a language more accessible to language minority voters is very important and speaks to the need to continue Section 203 coverage.

CONCLUSION

On behalf of the Community Service Society I urge the Subcommittee on the Constitution of the House Committee on the Judiciary to support our efforts to extend coverage of Section 203 of the Voting Rights Act, with the modifications advanced herein.

Dated: New York, NY
9 November 2005

Respectfully submitted,

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Mr. CHABOT. I want to thank all of the panel members for their testimony here this morning.

The question I am going to ask has several parts to it, and I am just going to go down the line and let each one of you take it. I'm not sure if I'll have any time left when I'm done because I'm encouraging Members to stick within their 5 minutes because we only have the room until 10 o'clock because there is another Committee coming here afterwards.

First of all, you've all indicated, I think, for the most part, with some exceptions, that 203 is still needed. Number one, are language minorities currently being discriminated against in the election process? And shouldn't Americans be encouraged to learn English? And shouldn't we be focusing on resources on bettering our schools and our Nation's proficiency in the English language? And how is this provision consistent with the naturalization process in which individuals applying for citizenship are required to learn and understand English? And finally, is section 203 consistent with encouraging assimilation, or, as some suggest, does the section divide or balkanize our Nation?

And there's a lot in there, and you're invited to take any parts that you feel comfortable with, within about a minute each, unfortunately. So we will begin with you, Ms. Johnson.

Ms. JOHNSON. Thank you. As far as should citizens be encouraged to learn English, I think we're not talking about Alaskan Natives or Native Americans as naturalized citizens, we're talking about them as the indigenous citizens of this country. And in 1991 there was a study—in fact, right before there was some—203 was taken up again in Congress, the study said—Nations at Risk said that 9 percent of the people only had limited English proficiency in the fifth grade in English. If you think about that, that's only—you're talking 10 years later, they're only in their early 20's. And in the communities, particularly from the rural parts of Alaska that I know best, English is the second language, and that elders continue to speak in the language that they know best, and that children continue to learn in that environment. Although the children learn English in school, it doesn't mean that it necessarily is their—and I think that the younger generations will probably be more proficient in English. We still have a huge sector of our population that is more proficient in their own indigenous language, and so we need to accommodate that.

Mr. CHABOT. Thank you.

Mr. McAlpin.

Mr. MCALPIN. Mr. Chairman, I think what you said, does it discriminate against other language minorities? Obviously to have ballots in English discriminates against other languages, I mean, that's self-evident, but I think the real issue is it does not discriminate against anybody on the basis of race or ethnicity or national origin, and that point I made in my testimony.

Shouldn't we be encouraging people to learn English? Absolutely. The census shows that an immigrant who speaks English well earns on average 43 percent more than one who doesn't speak it well. If they speak English very well, they earn almost twice as much as someone who doesn't speak it well. So it's clearly in the country's interest and it's in the immigrants' interest to encourage

them. It raises their job skills and raises their taxpaying power, everything. It's a win-win situation. We definitely should be encouraging that.

Naturalization, it's not consistent with naturalization. Now I'm very much aware that we do have exceptions in our naturalization laws for people that have been here for over 20 years, that are 50 years of age or more, but that's an enormous concession to people to make that, and it does not follow that because we give them that privilege, that we have to then also go to the trouble of providing bilingual ballots. They have alternatives that are very logical, common-sense and targeted. Like I said, to bring an interpreter into the poll with them, family member or whoever they want, they have that right; the Justice Department has made that clear since 1982.

Does it divide our Nation? Yes. It takes us down a pejorative path that we do not want to go. This country has had a successful model since its founding, called the melting pot, of assimilating people from every place on Earth to become good, solid Americans and part of our community, and we want to continue—to turn our back on that, which is what this starts to do, it sends a very strong signal that we can be a Nation of linguistically isolated colonies instead of one community speaking one language and having that common bond. Very important, as Barbara Jordan said, to promote policies that ensure our civic unity, and that means our linguistic unity as well.

Mr. CHABOT. Thank you.

Mr. Tucker.

Mr. TUCKER. Thank you, Mr. Chairman.

Really I want to break down my answer in two parts; first of all, to debunk this myth that somehow most of the individuals who need language assistance are recent arrivals. They're not. The 2000 census data shows that among Hispanics, 60 percent of all Hispanics in the United States were Native-born Hispanics. One hundred percent of Puerto Ricans, of course, are Native-born, as well as all Alaskan Natives and Native Americans.

So that being aside, it's clear just based upon that evidence alone that this is not just—nor should it be—some sort of division between let's treat the naturalized citizens differently than the folks who were Native-born. We need to have one standard, it should apply, and that standard should be let's make the election system open and accessible to every citizen who needs it, regardless of their language abilities.

Among Latinos, according to the 2000 census, 40.6 percent of all Latinos in the United States speak English less than very well. And among Native Americans and Alaskan Natives, that number is 11.1 percent of all Alaskan Natives and Native Americans.

Mr. CHABOT. I hate to cut you off here, but I'm trying to be fair to all my colleagues here. So thank you very much.

Mr. Cartagena.

Mr. CARTAGENA. Mr. Chairman, I think the information that I provided in my testimony with respect to compliance with 203 and the issues of Federal observers and litigation promoted by the Department of Justice and other attorneys demonstrate that there

still is a problem of discrimination against language-minority citizens in this country.

With respect to your other questions regarding how do you square 203 with naturalization and whether or not it's encouraging assimilation, I don't think anyone is standing before any of you, sir, gentlemen, and demanding that—or asserting that language-minority citizens do not want to learn English; they all do. The problem is there's not enough resources for them to learn English. I cite a *New York Times* article in my testimony that demonstrates that there are no places for adults to learn English in virtually all of Queens County.

The point here, sir, is that we're talking about the right to vote, one of the most cherished rights in our democracy. And to condition that right to vote on complete fluency in English, enough to try to even understand ballot initiatives and referenda—which is not easy to do even in the English language, I would submit—I think is a mistake. The right to vote is too important to take it away from individual citizens who are simply trying to participate in the political process.

Mr. CHABOT. Thank you very much.

The gentleman from Michigan, the distinguished Ranking Member of the full Judiciary Committee, Mr. Conyers is recognized.

Mr. CONYERS. Thank you, Mr. Chairman.

This morning it seems like *deja vu*. I can't—I almost can't believe that I am listening to a debate about whether immigrants or recent immigrants need assistance at the polls. It's like we've just thrown away 30 years of constitutional voting rights history and opened this up as a brand new subject.

And to quote Barbara Jordan, Mr. McAlpin—I don't know if you've met or know Barbara Jordan, she was a member of this Committee. And for you to take that phrase and suggest or imply that it supports your position is something that I would like to discuss with you for the rest of the year.

But this is a stunning discussion here. We've been through the courts on this. The law is settled on it. Why we're going through all of this may be because of H.R. 997, an English-only bill, which my Chairman is or was a co-sponsor of, Mr. Chabot, and I don't know what it is we're doing here.

Immigrants are discriminated, exploited, oppressed, economically subjugated. Their rights are violated outside of voting. Here is a subservient labor workforce that is incredibly discriminated against, and we meet here to discuss constitutional niceties about whether or not they ought to—they need any help with English language in voting. Of course they do.

Now, Michigan is covered—is caught by this provision in Allegan County, and we've checked with all the Mexican-American Legal Defense and the National Association of Latino Elected Officials, NALEO, and compliance seems to be good and going on.

But let me yield to Mr. Tucker to help me stabilize my presence here this morning in the kind of discussion that we're having. I would like you to comment on my observations, please.

Mr. TUCKER. Thank you, Mr. Conyers.

I want to point out again that I think everything that the gentleman from Michigan said is absolutely true, that there really

should not be some sort of bifurcation or have different gradations of citizenship. We really should be far beyond that. And the fact of the matter is that I'm someone who has worked both as someone who has been a trial attorney at Justice enforcing the provisions, as well as someone who's worked with election officials to come into compliance. Most elections officials want to do this. Most elections officials want to do the right thing, which is to include these folks.

To the extent that there's a discussion that somehow this is going to balkanize the country, exactly the opposite is true. The fact of the matter, as this Committee has recognized, as well as the House and Senate recognized when it previously considered this provision, most individuals who are immigrating to the United States learn English well enough within about 10 years after arrival. This is a way to integrate them into the system, this is a way to make them full Americans. And to be talking about in 2005 that we're going to somehow treat naturalized citizens in a different manner than folks who happen to be Native-born is somewhat astonishing. I mean, that's an argument that was made repeatedly in the 19th century, and it's really time that we should move beyond that. The fact of the matter is assistance does make a difference, having people there who could speak their language does make a difference.

The voter assistance provisions of section 208 do not cure this problem. The fact of the matter is our studies show that 90 percent of the jurisdictions—and these are election officials—are getting 208 wrong. And this is exactly consistent with what is frequently reported in the newspaper, where you have people who will bring their mother with them, their father, their daughter, their son to give them assistance, and they're turned away, they're not allowed to go into the voting booth. So for those reasons I believe the gentleman from Michigan is absolutely right, and 203 is necessary.

Mr. CONYERS. I assume, Mr. Cartagena, Esquire, that you're in general agreement with the comments of myself and your fellow witness?

Mr. CHABOT. The gentleman's time is expired. Please answer the question.

Mr. CARTAGENA. Yes, I am, definitely.

Mr. CHABOT. The gentleman from Iowa Mr. King is recognized for 5 minutes.

Mr. KING. Thank you, Mr. Chairman. And I sit here and I see significant disagreement with a lot of the philosophy that I've heard here with the panel, and also I think the tone I hear from the questioning. And I think when I look back on this section 203, as I understand it, it's more than a generation old, and in a generation you can do a lot of things.

I look back on Lowell Webster, writing the American English dictionary for the express purpose of standardizing the spelling, the pronunciation and the meaning of the English language because it was just English that was being colloquialized in the Thirteen Original Colonies. When he traveled, he realized there were enclaves—just language enclaves, not ethnic enclaves, but just language enclaves being established in the original Thirteen Colonies, and he was afraid the United States of America would break apart because we couldn't communicate with each other to the level that

we would have an overall binding common communications currency. And so he wrote the English language dictionary.

It was his dream to make it a constitutional amendment, and I wish he had gotten that done. In fact, I wish we had never seen section 203 because in this generation we might have gotten away from all these language barriers, these language enclaves that we seem to be promoting here instead of seeking to diminish the promotion of assimilation. You need to learn English if you want to succeed and participate successfully in this society, and we're sending the opposite message by this policy.

My father grew up in a German-speaking household. He went to kindergarten the first day speaking only German, and he walked into the house that day from that first day, and he said hello to his mother in German, and she turned to him and pointed her finger at him and said, son, speaking German in this household is for you from now forbidden. I came here to become an American; I need you to go to school and learn English and bring it home and teach it to me. And that's how she learned it. And they were proud to be Americans. And she sent four sons back to Germany to fight in World War II and one to the South Pacific. And so, you know, that's the background that I bring to this.

And I think we're working in the wrong direction by promoting ethnic—or I'll say language enclaves. Ethnicity is another choice and another subject matter, but we need to pull this together. When will we ever get to the point where we can get rid of 203? By the testimony that I've heard—and I guess I'll turn the question to Mr. Tucker, and what would be your goals to—what do you think America is going to look like in a generation from now, or two or three, more language enclaves or less, if we keep promoting the language dependency?

Mr. TUCKER. Thank you, Mr. King. I would respectfully disagree with the gentleman from Iowa with respect to referring to the language enclaves. It really isn't. This is literally the melting pot of American Society. It's truly a wonderful thing.

I have to say, one of the shining moments that I have seen was what sort of impact this has on recent arrivals who do not speak English well enough to participate. And bear in mind that many of the individuals who do not speak English well enough, it's not because they don't want to, in many instances they simply are not capable of learning English. Many of the individuals, a large percentage who are limited in English proficiency in this country, are individuals over the age of 60. That's particularly true on the Navajo Reservation, throughout Indian country, among a large number of Latinos. And that, again, is specifically why in 1984, when the GAO commissioned the Southwest Voter Education Project to do a study, they found that the majority of the individuals who needed assistance were Native-born Americans that simply had not gotten the educational opportunities that they needed—

Mr. KING. Mr. Tucker, the Hispanics that come across from our southern border and arrive here, what is their indigenous language?

Mr. TUCKER. It would be Spanish.

Mr. KING. It would.

Mr. TUCKER. Yes.

Mr. KING. And what did their ancestors learn?

Mr. TUCKER. Presumably Spanish.

Mr. KING. What did they speak before that?

Mr. TUCKER. I don't know. I——

Mr. KING. Their Native American language that you're addressing. And they adapted Spanish quickly, and they learned it in the missionaries. In fact, it became the *lingua franca* that bonded them together. They had the ability to learn Spanish a few centuries ago, and I would think that they would have the ability to learn English today.

Can I turn to Mr. McAlpin for a comment, please?

Mr. MCALPIN. Yeah. First of all, thank you, Mr. King, I appreciate—and I wanted to reiterate, we are in favor of every citizen having the right to vote. And with all due respect to the gentleman from Michigan, sir, I did have the privilege of meeting Barbara Jordan, I did have the privilege of testifying before her commission, and I have enormous respect for her. And I think her words speak for themselves. And I think that she would be very much, really—I wish she were here to speak for herself. I think she would be encouraging that we go down the path of unifying people. And what we are saying here is we should not treat naturalized citizens differently from American citizens, we should treat people the same.

Now, I also want to just say that everybody has the right to get language assistance in the polls. They can bring an interpreter with them. There is nothing to prevent local election districts from hiring and providing interpreters. There is nothing to prevent groups and organizations like Mr. Cartagena's from providing volunteer interpreters and something like that. There are reasonable targeted opportunities for people who cannot speak English to be able to get assistance to be able to cast an informed ballot.

Mr. CHABOT. The gentleman's time is expired.

I hate to cut you off there, but the gentleman from Virginia Mr. Scott is recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman.

Let me follow up on that line of questioning, Mr. McAlpin. Apparently you're not offended when election officials are courteous and helpful and helping voters get through the registration and voting process; is that right? You're not offended by that?

Mr. MCALPIN. I most certainly am not. Sometimes when I vote early in the morning, they don't seem to be in the best of moods, sir.

Mr. SCOTT. Do you know what a blank paper ballot is?

Mr. MCALPIN. A blank paper ballot is a ballot that has a blank on it for——

Mr. SCOTT. The blank ballot voter registration form.

Mr. MCALPIN. Yes, I do.

Mr. SCOTT. You know what it is?

Mr. MCALPIN. Yes, sir.

Mr. SCOTT. If you have a form that asks the questions, that would be helpful. You don't like the blank paper voter registration form, do you?

Mr. MCALPIN. I'm not sure I understand your question, sir.

Mr. SCOTT. Would you support a blank paper voter registration form where you're given a blank piece of paper, and you have to fill out all the information; if you leave it out—

Mr. MCALPIN. There is no information printed on it in any way?

Mr. SCOTT. That's right. They used to have those. And it's up to the voter, the person trying to register, to put down all the information. And if you leave something out, like you forgot to answer whether you have been convicted of a felony, leave anything out, you leave, they just don't register your vote because you just didn't provide all the information.

Do you support the blank paper voter registration?

Mr. MCALPIN. I don't think so.

Mr. SCOTT. Do you support literacy tests?

Mr. MCALPIN. No. Certainly if they're not—if they're used in a discriminatory manner, absolutely not.

Mr. SCOTT. Do you support literacy tests?

Mr. MCALPIN. No, I do not. But I will say this, that a ballot in any language requires literacy.

Mr. SCOTT. Should bilingual assistance—I think you said bilingual assistance should be allowed.

Mr. MCALPIN. It is allowed under the law right now, it is allowed.

Mr. SCOTT. If it's provided, is that a good thing or a bad thing?

Mr. MCALPIN. It is a good thing for people that cannot read English well enough to understand a ballot, to allow them to have—they can bring a volunteer, a member, family member, a friend, clergyman, anybody else to help them into the poll with them—

Mr. SCOTT. And if a substantial number of people actually need assistance, and that assistance is denied, and large groups of constituents, of potential voters in the area can't get through the process, that assistance is denied, is that a good thing or a bad thing if the leaders in the community deny access to balloting by denying assistance to that group of people who might not vote for them? Is that denial and withholding of assistance a good thing or a bad thing?

Mr. MCALPIN. It's neither a good thing or a bad thing, it's an illegal thing.

Mr. SCOTT. Illegal now, but that's what we're talking about. Now, you said—

Mr. MCALPIN. No, no, sir. With all respect, sir, we're talking about printing ballots in certain other languages and voter information. We're not talking about providing assistance to people who cannot read a ballot in English.

Mr. SCOTT. Well, my response to that is you're talking semantics.

Let me go to Barbara Jordan's questions. Such policies should help people learn to speak, read and write English effectively. Suppose a group wants to change the policy; the school board will not provide English as a second language assistance; and a group of people, a majority of the people, if they can ever vote, could change the policy. Is it a good thing or a bad thing that we ought to help the people register to vote so they can change the policy so they can help to speak, read and write English effectively?

Mr. MCALPIN. Just two comments, sir. We are all in favor of—like I said, we believe that every qualified voter should be able to vote without exception. And secondly, we certainly support increased funding—

Mr. SCOTT. Well, you recognize—since my time is ending, you recognize, of course, that there would be a perverse incentive for the elected officials in the area to do everything they can to make sure that certain parts of the district don't vote because they might vote them out of office and change some policies. And if you supply everybody all the assistance they need to get registered and cast an effective vote, some of those people might just get voted out of office; isn't that right?

Mr. MCALPIN. Well, if they are using their power as elected officials to prevent people from voting, they should be voted out of office, sir.

Mr. SCOTT. Blank paper registration form doesn't prevent anybody from voting.

Mr. TUCKER, is it helpful to change the policies—if people—if everybody can register and vote?

Mr. TUCKER. I would say no, and the reason is very simple.

Mr. SCOTT. No what?

Mr. TUCKER. No, the policy should remain in effect, it should not be changed.

Mr. CHABOT. The gentleman's time is expired.

Mr. SCOTT. Could I have 30 seconds to finish the question?

Mr. CHABOT. Thirty seconds.

Mr. SCOTT. The policy I'm talking about is a policy if a community doesn't supply English as a second language assistance, and people want to change that policy so they can get more language assistance, the way you do that is through the political process. Now, if you can't vote, you can't change the process.

Now, isn't it helpful to have everybody voting so that everybody can have an equal voice in what the policy ought to be?

Mr. TUCKER. It absolutely is, Mr. Scott. I would also note that on each occasion when Congress has considered the bilingual election provisions, they've specifically noted that this should not be a punitive measure where the voters are held accountable for the lack of resources in their communities, whether it's ESL or denial of educational opportunities in the public school system.

Mr. CHABOT. The gentleman's time is expired.

The gentleman from Arizona Mr. Franks is recognized for 5 minutes.

Mr. FRANKS. Thank you, Mr. Chairman. And thank you, folks, for being here.

Mr. Cartagena, in hearing your testimony, I understand that it is your belief that we should have ballots printed in languages that reflect the local need as much as possible. And I guess I am sincerely wondering, where do we make the decision that ballots should be printed in a particular language? How do we make that decision in an unbiased manner? In other words, if we're in an area where there is a large Hispanic population or a large German population, where do we make a distinction?

Mr. CARTAGENA. Well, currently 203 makes that distinction for us. 203 has a numerical threshold and a number of other indicators

that are objectively identifiable. The Census Bureau must certify that at least 5 percent of the current jurisdiction is limited English-proficient language-minority citizens, or 10,000 people, whatever is less.

Also, the Census determines other issues regarding education attainment. When those things happen in combination, then the Federal policy is to provide assistance in a language other than English.

Mr. FRANKS. Well, Mr. Cartagena, I know that you know that the goal there, of course, is to help those who cannot understand the ballot; but it occurs to me that that's an arbitrary decision, because there is someone in the community that is not going to be covered under that situation. That's just an invariable reality. My wife came here, emigrated from the Philippines, and she now speaks four languages. When she came to the United States, in English she knew yes, no, and what's your name. She consistently beats me at the Word Power games now, so it's kind of embarrassing. But the reality is that her family had great wisdom in making sure that she could understand the common language in this country so that she could do well.

There is an old Iroquois quote that the secret to the universe is in the true naming of things, and that can't exist unless there is some common language that everyone understands. And if we're going to make an arbitrary Federal decision to say, well, in this area we're going to print the ballot in two languages, this area three languages, no matter what we do, we will leave some group of people that don't understand those languages out, unless we print the ballot in all known languages on the Earth, which is impractical and impossible.

And it just occurs to me that no matter how far down this road we go, that if we don't somehow invite and encourage a strong commitment on all the part of our citizens to a common language, that we do them a disservice in the long run. And, of course, I say that as someone, you know, that is married to a lady that speaks three more languages than I do, and again, that's embarrassing. But the reality is that if we're not careful, where do we stop here?

I understand the very nature of the principle of creating ballots in many languages seems to speak against doing that because we can't possibly print it in enough languages. So I just, Mr. Chairman, express that for the record, and appreciate the panelists for speaking to the issues.

Mr. CARTAGENA. If I may just respond, Congressman. A wonderful thing when you talk about language, everyone has a personal story to say. And I appreciate your comments, and I appreciate Congressman King's comments about his family. Let me tell you very briefly, then, in my family I learned English when my mother migrated from Puerto Rico to the United States in the '50's. When she died, she had just been retired only about several—a handful of years, never earned more than \$11,000 a year, worked in a sewing machine factory, knew barely enough English to get her way from her house to her job. She is from Puerto Rico, sir.

And the issues that were raised by Mr. King and yourself seem to imply that Puerto Ricans, as one subset of the Latino community, do not want to learn English and insist on keeping Spanish.

And the kind of discussion that we all have separates the reality that for Puerto Ricans in this country and for Puerto Ricans in Puerto Rico, the issues are pretty clear with respect to—

Mr. FRANKS. Let me just respond to that because I understand what you're saying—

Mr. CARTAGENA. Service in our military with no questions asked.

Mr. FRANKS. Mr. Chairman, reclaiming my time here just briefly. My time is almost gone.

I appreciate your thought there. That's not my heart at all. The bottom line is, though, that if the language is Spanish—why not Ilocano? Why not Tagalog? That leaves my wife out and would have left her out in that situation. And I just am concerned that if we don't recognize the reality, we always leave someone out in that situation, and the only ultimate hope for everyone is to bring everybody together in a language we all understand.

Mr. CHABOT. The gentleman's time is expired. We have to give up this room when the big hand is on the 10. The gentlelady from Texas—on the 12, rather. The gentlelady from Texas Ms. Jackson Lee has the balance of the time, which I think is about 2½ minutes.

Ms. JACKSON LEE. I thank the Chairman—and I will move very quickly—I thank the Chairman and the Ranking Member for allowing me to join this discussion. I look forward to being with you next week.

Let me just quickly say I represent the 18th Congressional District, had the privilege of having Barbara Jordan as the maidenholder of this seat, and also the privilege of her support as I ran, and interacting with her principles and values.

Might I just say that utilizing the quote that Mr. McAlpin has used, let me just say that since Congresswoman Jordan was responsible for the language provision that included at that time Hispanics under the Voter Rights Act of 1965, I would venture to say that the interpretation of her remarks would be such that she would not use the hammer of non-English to deny a birthright of the right to vote.

And I would work with Mr. McAlpin continuously to expand English and provide educational resources and make sure our schools are credible and that we don't have second- and third-rate schools. But how that tracks with the voting right is a question.

So Mr. Tucker, here is my question, because we have to determine whether we want to continue this provision and assistance, and that bears on the question of unduly burdensome in terms of the constitutional standard. Would this continuance be unduly burdensome on local jurisdictions, and in terms of cost and feasibility, as you would juxtapose it against the birthright, the constitutional right, the desires of making sure that all Americans and all who are eligible to vote can vote?

Mr. TUCKER. No, it would not. As the Supreme Court has recognized for over 100 years, voting is a fundamental right. It's not a fundamental right for some groups and not for others, it's a fundamental right for all Americans. It is not unduly burdensome.

I do want to point out that it's not just our study that has shown that it's not unduly burdensome, but the two GAO studies—which

I again would commend to the Committee's attention—show the same thing.

The other point I want to make is that many of the costs that can be associated with providing language assistance can be limited significantly through effective targeting. Congress recognized that targeting should be a key component of it to make sure that those folks who need assistance receive it. DOJ's guidelines call for the same thing. And jurisdictions that effectively target, do it, provide assistance significantly.

Mr. CHABOT. The gentlelady's time has expired.

Ms. JACKSON LEE. Thank you, Mr. Chairman. I think we have that burden to do that.

Mr. CHABOT. The Ranking Member Mr. Nadler is recognized for the purpose of making a brief statement.

Mr. NADLER. Thank you, Mr. Chairman.

First of all, let me apologize. This hearing was very quickly rescheduled, and I had a previous commitment I couldn't get out of until now.

Let me just say—I will submit questions for the record, but I want to say for the record also that I regard the bilingual requirements of section 203 as of extreme importance, as not burdening anyone. And when you think of the fact not only—when you think of the fact that we want to increase people's participation in democratic, or a small D, government, and that there are plenty of people in this country who are citizens for whom English is not their first language, many of whom are born in the United States and Puerto Rico who don't have to learn English to become a citizen, this is little enough to ask. It has been a great service that we've had this requirement. It has increased democratic participation, and we should not even think of relaxing it in any way.

Thank you, I yield back.

Mr. CHABOT. I thank the gentleman.

I thank the witness panel and all the Members for being here today. We do have one hearing next week—one hearing on the Voting Rights Act next week.

If there is no further business to come before the Committee, we are adjourned. Thank you.

[Whereupon, at 10:02 a.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE STEVE CHABOT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO, AND CHAIRMAN, SUBCOMMITTEE ON THE CONSTITUTION

Welcome and thank you everyone for being here. This is the Subcommittee on the Constitution and the eighth in a series of hearings this Committee is holding examining the impact and effectiveness of the Voting Rights Act over the last twenty-five years. Today this Committee will continue its focus on Section 203, the provision authorizing bilingual language assistance to American citizens who are members of covered language minority groups and who have limited-English proficiency. Section 203 is set to expire in 2007, unless reauthorized.

I would like to welcome our witnesses here today and look forward to their testimony.

I'll be brief this afternoon. Section 203 was enacted in 1975 in response to a history of unequal educational opportunities experienced by citizens whose dominant language is not English. Section 203 responds to this disparity by requiring designated jurisdictions to provide bilingual election assistance, including notices, instructions, information, and ballots, to citizens who are members of a designated language minority group and who have limited-English proficiency.

As we heard yesterday, Section 203 has been an effective tool in assisting citizens who are members of a covered language minority group to participate in one of the most fundamental elements of our system of democracy. However, we also heard testimony yesterday that Section 203 diminishes the importance of the English language in our nation, and imposes unnecessary costs on our electoral system.

These are all important factors that the Committee must consider as we continue to examine the VRA. I look forward to continuing this discussion and hearing from our witnesses.

PREPARED STATEMENT OF THE HONORABLE JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND MEMBER, SUBCOMMITTEE ON THE CONSTITUTION

When Congress passed the Section 203 of the Voting Rights Act in 1975, we recognized that through the use of various practices and procedures, citizens of language minorities had been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens was directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation.

We then determined that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it was necessary to eliminate such discrimination by prohibiting discriminatory voting practices, and by prescribing other remedial devices. Thus we saw a direct connection between access to the ballot box and the ability to achieve equal educational and economic opportunity. Covered language minorities included: American Indians, Asian Americans, Alaskan Natives, and Spanish-heritage citizens—the groups that Congress found to have faced barriers in the political process.

The legal requirements of Section 203 are straightforward: all election information that is available in English must also be available in the minority language so that all citizens will have an effective opportunity to register, learn the details of the elections, and cast a free and effective ballot. Sections 203, in combination with Section 4(f)(4) of the Voting Rights Act, have been tremendously successful in opening the franchise to citizens who are not native English language speakers.

Some witnesses have challenged the constitutionality of Section 203 and even questioned the need for the provision. While I approach these hearings with an open mind, let me say at the outset, I fully support bilingual election assistance. In a growing multi-cultural society it only makes sense that we support and require the assistance necessary to allow every citizen to cast an effective ballot.

I believe that it is dangerous to assume that past historical discrimination faced by language minorities has suddenly faded away with the passing of the millennium. If anything, the growth of our immigrant population has exacerbated existing patterns of discrimination. We see this in everything from patterns of hate violence to the rise of English-only movements which have not quite shaken their links to the past prejudices.

As we move forward, I hope that our witnesses will address the continuing challenges faced by language minorities in gaining equal access to the ballot box, with a particular focus on litigation and patterns of discrimination. Equally important, I hope that they highlight the record of compliance by jurisdictions and the fact that the provision is not burdensome. At the end of this process, this Committee wants no question as to the need and viability of Section 203.

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS, AND MEMBER, COMMITTEE ON THE JUDICIARY

SHEILA JACKSON LEE
16th District, Texas

WASHINGTON OFFICE:
2435 Rayburn House Office Building
Washington, DC 20515
(202) 225-0818

DISTRICT OFFICE:
1919 Smith Street, Suite 1180
The George "Mickey" Leavelle Federal Building
Houston, TX 77002
(713) 555-0050

ACRES HOME OFFICE:
6719 West Montrossway, Suite 204
Houston, TX 77019
(713) 691-4882

HEIGHTS OFFICE:
420 West 15th Street
Houston, TX 77008
(713) 861-4070

Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEES:
JUDICIARY

SUBCOMMITTEES:
CRIME, TERRORISM, AND HOMELAND SECURITY
Revised March
IMMIGRATION, BORDER SECURITY, AND CLAIMS

HOMELAND SECURITY

SUBCOMMITTEES:
INTELLIGENCE, INFORMATION SHARING, AND
TERRORISM RISK ASSESSMENT
ECONOMIC SECURITY, INFRASTRUCTURE PROTECTION,
AND CYBERSECURITY
MANAGEMENT, INFORMATION, AND OVERSIGHT

SCIENCE

SUBCOMMITTEES:
ENERGY
SPACE AND AERONAUTICS
Marked
DEMOCRATIC CAUCUS POLICY AND
STEERING COMMITTEE
Diverse
CONGRESSIONAL CHILDREN'S CAUCUS

Statement by

Congresswoman Sheila Jackson Lee

Judiciary Subcommittee on the Constitution

Oversight Hearing on "The Voting Rights Act:

Section 203 – Bilingual Election Requirements, Part II"

November 10, 2005



Mr. Chairman and Mr. Ranking Member, I thank you,

first of all, for allowing me to join in on today's
subcommittee hearing concerning Section 203 of the Voting
Rights Act (VRA), which contains the Act's bilingual
assistance provisions which apply only to citizens of Spanish,

Native American, Asian, and Alaskan heritage, and is also of limited geographic scope.

This matter is of great concern to me, especially in light of my experience with litigation in the series of redistricting cases. I, along with Representative Eddie Bernice Johnson, attempted to bring justice in the U.S. Supreme Court in Lee and Johnson v. Perry, 125 S.Ct. 352 (2004).

The nuts and bolts of the debate on the instant provision are that since Latinos stereotypically are only concerned with the language minority provisions and African Americans are stereotypically only concerned with Section 5, thereby creating a racial dichotomy. Further complexity is added to this dichotomy by the meritorious concerns of Asian Americans and Native Americans. Originally, and as we can see from legislative history, VRA was initially and

rightfully aimed at restoring the dignity of African-American voters, but even in 1965, it was never just a two-race situation.

Between World War I and II, America saw an insurgence of political activism among Puerto Ricans in New York — over 36 organizations were created, which spawned a voter registration rate of 50%. Furthermore, the population of that community grew by 50% from 1930 to 1940 and then quadrupled from 1940 to 1950. Even in my state of Texas, we saw the use of the literacy test requirement in a discriminatory way against the vulnerable language minorities. English only election systems in Texas along with the Puerto Rican voters in New York were critical for the 1975 amendments that brought language minorities into the coverage formula for Section 5.

It has been reported that between 1974 and 1988 in Texas alone, MALDEF and Southwest Voter Registration Education Project filed 88 voting rights suits.

In Garza v. Smith, Mexican American voters challenged laws which prohibited their receiving assistance in casting their ballots, even if they were illiterate in English, because only the physically disabled were entitled to that assistance. The court ruled in favor of all illiterate voters in Texas and, along with the holding in Torres v. Sachs, served as a milestone in overcoming the destructive and discriminatory effects of the English-only election system.

MALDEF stated correctly, "federal courts have held that where Spanish-speaking Americans reside, the

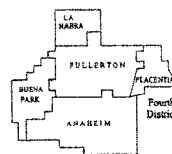
conducting of an election only in the English language is a
'device' which abridges or denies the right to vote of such
citizens."

PREPARED STATEMENT OF CHRIS NORBY, SUPERVISOR, FOURTH DISTRICT,
ORANGE COUNTY BOARD OF SUPERVISORS



CHRIS NORBY
Supervisor, Fourth District
Orange County Board of Supervisors

Orange County Hall of Administration
10 Civic Center Plaza, P.O. Box 687, Santa Ana, California 92702-0687
Phone (714) 834-3440 Fax (714) 834-2045
chris.norby@ocgov.com
www.oc.ca.gov/super/fourth/



November 18, 2005

Representative Steven Chabot, Chairman
Constitutional Subcommittee of the House Judiciary Committee
129 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Chabot:

The Voting Rights Act reauthorization must ease the burden on counties to produce costly and unnecessary multilingual voting materials. It must end the discretionary powers of Justice Department officials to foist costly and divisive burdens on counties to produce non-English voting materials. It must recognize the desire and ability of immigrants to vote in English. It must not perpetuate negative stereotypes that immigrant voters are unwilling or unable to vote in English.

Each election raises questions about multilingual ballots and voter pamphlets. Orange County's new computerized voting system forces voters to choose among five different languages popping up on the screen.

During the recent Special Election campaign there were charges of inaccuracies in the Spanish and Korean versions of the ballot propositions. The publication of those non-English language voting materials cost Orange County taxpayers \$596,919 for the 2004 and 2005 elections.

Why are multilingual ballots and voter information required? Are they needed? Do they really help immigrants or perpetuate divisive stereotypes?

The U.S. Justice Dept. enforces and interprets the Voting Rights Act, which applies differing standards among America's 3,066 counties. Los Angeles County, for instance, provides translations in Spanish, Chinese, Vietnamese, Korean, Japanese and Tagalog. States with few immigrants, such as Alabama and Maine, use only English. The Orange County Registrar of Voters must provide translations in Spanish, Chinese, Korean and Vietnamese.

Are these materials actually needed? How many voters really cannot read English?

Foreign-born voters must have passed a citizenship test, given in English. Immigrants study for months and take special classes to prepare for this test. That's why the vast majority of immigrants do vote in English. Of the 1.5 million Orange County voters, only 10,506 requested non-English ballots in the last election. That's 0.7% of the total voting population, or just seven for every 1,000 voters.

Multilingualism perpetuates the false stereotype that immigrants are not learning English, either by lack of desire or ability. Today's naturalized citizens have higher education and income levels than in past generations.

Complex ballot propositions are difficult enough to explain in English, let alone other languages. Chinese uses over 20,000 characters, with a simplified system (Mainland) and traditional system (Taiwan, Hong Kong) that are distinctly different. Not surprisingly, most Chinese-American voters in Orange County are well-educated professionals who overwhelmingly vote in English.

The original Voting Rights Act of 1965 empowered African-Americans to vote, which had long been denied in the Jim Crow South. The law ended blatant race-based political discrimination. It had nothing to do with multilingual voting. It was only in subsequent renewals of the Voting Rights Act that multilingual ballot requirements crept in, and those rules have become onerous.

The method of determining non-English speaking voters is highly suspect. Census forms ask us whether we speak English "Very Well, Well, Not Well or Not at All." Only those checking "Very Well" are judged capable of voting in English. Speaking English "Well" should be good enough. It was obviously good enough to pass the citizenship test!

In addition, all adults who have not finished the 5th grade (like Abraham Lincoln?) are presumed illiterate. When more than 5% or 10,000 of the voting age population of a county meet both these criteria, the non-English ballot requirements take effect.

Such confusing rules allow federal bureaucrats arbitrary discretion. Last year, the Justice Dept. required us to send 118,856 "outreach" letters offering voters foreign language ballots. We got hundreds of angry responses back from voters insulted at the suggestion they couldn't speak English.

Soon, voter pamphlets may be required to contain all five languages—even those sent to native English speakers. This would cost the county over \$20 million per election, incite anti-immigrant feelings, and give the voter pamphlet the bulk of a phone book. Translations may also soon be required in Tagalog, one of the two official languages of the Philippines. Its other official language is English, which virtually all Filipino immigrants speak fluently.

Republicans can no longer blame Democrats for such misguided programs. We have the power to change them. Local Congressmen Royce, Miller, Rohrabacher and Calvert have all expressed their support for relief. We can end these costly, unneeded and divisive rules, while still guaranteeing all citizens equal access to our political system.

Sincerely,

CHRIS NORBY, Supervisor
Orange County Fourth District

CN:kl

cc: Committee Members
Orange County Congressional Delegation

Lien Chu
25 Calle Alhambra
Folsom, CA 95630

AFF # 30M313701



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in: English is OK

Chinese _____

Korean _____

Spanish _____

Vietnamese _____

no other languages needed

Signature Lien Chu

Date 10-21-04

Ang Marie Hernandez
11147 Sinford Way
Garden Grove, CA 92640

AFF # 30M012703



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in: X English

Chinese _____

Korean _____

Spanish _____

Vietnamese _____

Signature Ang Marie Hernandez

Date 10/3/04

Henry Tran
14372 Lyndon St
Garden Grove CA 92643

AFF # 305A089506



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in: ABSENTEE IS ALLOT English

Chinese

Korean

Spanish

Vietnamese

Signature

Date

10-4-04

Diane Nieto
26672 Valeriano Ex
Mission Viejo CA 92691

AFF # 000 603153



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

Chinese

Korean

Spanish

Vietnamese

Signature

Date

9/27/04

Uyen Jackson
18181 Santa Anita Dr
Cupertino Valley CA 92708

AFF # 304A475129



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

Chinese

Korean

Spanish

Vietnamese

Signature

Date

English only
9/26/07

Uyen Jackson



AFF # 00 782811



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

Chinese

Korean

Spanish

Vietnamese

Signature

Date

Augustine
Shameful

*It is a great privilege to vote and thank
I am an immigrant I learned English to
become a integral part of this country.*

Hong Simon
28861 Legato
Mission Viejo CA 92631

APP # 58AM70857



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

Chinese _____ Korean _____

Spanish _____ Vietnamese _____

Hong Simon *9-25-04*
Signature Date

Yard 444
15181 Toulans Way
Irvine CA 92614

APP # 70AP30735



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

Chinese _____ Korean _____

Spanish _____ Vietnamese _____

*This is ridiculous - If you can't speak
our language - don't vote in our elections!*
Signature Date

OF FUNDING PROGRAMS TO TEACH THE ENGLISH LIT.

Case: CHARGE 72 Q12 AFF # 091-420055

14551 Chaswell Dr
Tustin CA 92780



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

Chinese _____ Korean _____

Spanish _____ Vietnamese _____

MTB 10/26/04
Signature Date

WE ARE IN THE U.S.A.
ENGLISH ONLY!

Benjamin Pearson
5145 Shatt St
Tustin, CA 92780

AFF # 7000000071



STOP WASTING TAXPAYER'S FUNDS!

Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

~~Chinese~~ ~~Korean~~

~~Spanish~~ ~~Vietnamese~~

MTB 9/23/04
Signature Date

Please send me a whole package, voting in English only. I don't want any other languages. Otherwise I don't vote for any party now and ever.

Bao Choc Nguyen
12841 Fern St
Garden Grove CA 92641

AFF # 30VMS40547



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

Chinese _____ Korean _____
Spanish _____ Vietnamese _____

Bao
Signature

Sept. 25, 01
Date

As a Proud naturalized American, I
felt obliged to learn English so I
could vote intelligently.

Lynne Davis
23862 Via El Pecho
Mission Viejo CA 92691

AFF # 000 70277E



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in. (By the way, my native

language is French
Chinese _____ Korean _____

Spanish _____ Vietnamese _____

Lynne Davis
Signature

9-24-01
Date

Margot Wiener
40211 Birchwood Dr
Huntington Beach CA 92648

AFF # D9. 115533

Excuse me, but
why do you spend (waste) tax
Please complete and return this postcard to receive election
materials in another language in addition to English.
Please indicate the language you wish to receive your election
materials in:
We live in the United States

Chinese _____

Korean _____

Spanish _____

Vietnamese _____

Where ENGLISH is
the major language you
live here, so learn it.

Signature _____

Date _____

Nelen Yuen
7710 E Aubrey Ln
Anaheim CA 92808

AFF # 300 658475

ENGLISH
PLEASE!

Please complete and return this postcard to receive election
materials in another language in addition to English.

Please indicate the language you wish to receive your election
materials in:

Chinese _____

Korean _____

Spanish _____

Vietnamese _____

Signature Ny7

Date 09-28-04

We are in the United States if you can't
 speak English you should not be
 allowed to vote

Rene Gonzalez
 405 N 5th St Apt A
 Rosemead, CA 91768

APT # 301 028041

We are not in China, Korea, Vietnam
 or Mexico.

My Jan dollars should not be used on stuff
 like this

Please complete and return this postcard to receive election
 materials in another language in addition to English.

Please indicate the language you wish to receive your election
 materials in:

Chinese ☒ Korean ☒
 Spanish ☒ Vietnamese ☒

R. O. S. A.
 Signature

9-22-84
 Date



Permanent Absentee Voter (Vote-by-Mail) Application Solicitud de Votante Ausente Permanente (Votación por correo)

Please mail this by **October 4th** to become a Permanent Absentee Voter for the November 2004 General Election.
 Envíe esta solicitud por correo para el **4 de octubre**, o antes, para ser Votante Ausente Permanente en las Elecciones Generales de noviembre de 2004.

Please Print (Escriba en letra de molde)

First Name (Nombre) Middle Name (Segundo nombre) Last Name (Apellido) Telephone Number (Número de teléfono)

Residence Address (Dirección donde vive)

Mailing Address (Dirección postal)

City (Ciudad), State (Estado), Zip (Código postal)

City (Ciudad), State (Estado), Zip (Código postal)

This application will not be accepted without the proper signature of the applicant. I hereby apply for Permanent Absentee Voter status. Esta solicitud no se aceptará sin la firma debida del solicitante. Por la presente solicito condición de Votante Ausente Permanente.

Signature (Firma)

Date (Fecha)

L. Escamero

2004 OCT 04 09:02



Permanent Absentee Voter (Vote-by-Mail) Application Solicitud de Votante Ausente Permanente (Votación por correo)

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 Envíe esta solicitud por correo para el **4 de octubre**, o antes, para ser Votante Ausente Permanente en las Elecciones Generales de noviembre de 2004.

Please Print (Escriba en letra de molde)

First Name (Nombre) Middle Name (Segundo nombre) Last Name (Apellido) Telephone Number (Número de teléfono)

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Signature (Firma)

Date (Fecha)

You are SHAME

2004 OCT 04 09:02



PERMANENT ABSENTEE VOTER (Vote-by-Mail) Application **Solicitud de Votante Ausente Permanente (Votación por correo)**

Please mail this by **October 4th** to become a Permanent Absentee Voter for the November 2004 General Election.
Envíe esta solicitud por correo para el **4 de octubre**, o antes, para ser Votante Ausente Permanente en las Elecciones Generales de noviembre de 2004.

Please Print (Escriba en letra de molde)

First Name (Nombre) Middle Name (Segundo nombre) Last Name (Apellido) Telephone Number (Número de teléfono)

Residence Address (Dirección donde vive)

Mailing Address (Dirección postal)

City (Ciudad), State (Estado), Zip (Código postal)

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Signature (Firma)

Date (Fecha)

What is this in a foreign language?
MIKE GILMOOR

3211

OS-01 31073



Permanent Absentee Voter (Vote-by-Mail) Application **Solicitud de Votante Ausente Permanente (Votación por correo)**

Please mail this by **October 4th** to become a Permanent Absentee Voter for the November 2004 General Election.
Envíe esta solicitud por correo para el **4 de octubre**, o antes, para ser Votante Ausente Permanente en las Elecciones Generales de noviembre de 2004.

Please Print (Escriba en letra de molde)

First Name (Nombre) Middle Name (Segundo nombre) Last Name (Apellido) Telephone Number (Número de teléfono)

Residence Address (Dirección donde vive)

Mailing Address (Dirección postal)

City (Ciudad), State (Estado), Zip (Código postal)

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Signature (Firma)

Date (Fecha)

How do you check to see if the person
applying is a U.S. citizen?
This is wrong!!!!

OS-01 31073

 **Permanent Absentee Voter (Vote-by-Mail) Application**
Solicitud de Votante Ausente Permanente (Votación por correo)

Please mail this by **October 4th** to become a Permanent Absentee Voter for the November 2004 General Election.
 Por favor envíe esta solicitud por correo a más tardar el **4 de octubre** para convertirse en votante ausente permanente en las Elecciones Generales de Noviembre de 2004.

English only

Please Print (Escriba en letra de molde)
 First Name (Nombre) **OPENS** Middle Name (Segundo nombre) **Door** Last Name (Apellido) **to illegal** Telephone Number (Número de teléfono) **voters!!**


Residence Address (Dirección donde vive) _____ Mailing Address (Dirección postal) _____

City (Ciudad), State (Estado), Zip (Código postal) _____ City (Ciudad), State (Estado), Zip (Código postal) _____

This application will not be accepted without the proper signature of the applicant. I hereby apply for Permanent Absentee Voter status. Esta solicitud no se aceptará sin la firma debida del solicitante. Por la presente solicito condicionar mi voto a estar ausente permanente.

Signature (Firma) _____ Date (Fecha) _____

SEP 24 2004

 **Permanent Absentee Voter (Vote-by-Mail) Application**
Solicitud de Votante Ausente Permanente (Votación por correo)

Please mail this by **October 4th** to become a Permanent Absentee Voter for the November 2004 General Election.
 Por favor envíe esta solicitud por correo a más tardar el **4 de octubre** para convertirse en votante ausente permanente en las Elecciones Generales de Noviembre de 2004.

Please Print (Escriba en letra de molde)
 First Name (Nombre) _____ Middle Name (Segundo nombre) _____ Last Name (Apellido) _____ Telephone Number (Número de teléfono) _____

Residence Address (Dirección donde vive) _____ Mailing Address (Dirección postal) _____

City (Ciudad), State (Estado), Zip (Código postal) _____ City (Ciudad), State (Estado), Zip (Código postal) _____

This application will not be accepted without the proper signature of the applicant. I hereby apply for Permanent Absentee Voter status. Esta solicitud no se aceptará sin la firma debida del solicitante. Por la presente solicito condicionar mi voto a estar ausente permanente.

Signature (Firma) **It is opens the door to voter fraud, you should be ashamed of yourself. You don't even have the decency to have a useless box to check citizenship status** Date (Fecha) **hide your face Mr. Shelly!!**

SEP 24 2004



Permanent Absentee Voter (Vote-by-Mail) Application Solicitud de Votante Ausente Permanente (Votación por correo)

Please mail this by **October 4th** to become a Permanent Absentee Voter for the November 2004 General Election.
Envíe esta solicitud por correo para el **4 de octubre**, o antes, para ser votante ausente permanente en las Elecciones Generales de noviembre de 2004.

Please Print (Escriba en letra de molde):

First Name (Nombre) Middle Name (Segundo nombre) Last Name (Apellido) Telephone Number (Número de teléfono)

Residence Address (Dirección donde vive)

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City (Ciudad), State (Estado), Zip (Código postal)

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Signature (Firma)

Date (Fecha)

FORM 001-00000000



Permanent Absentee Voter (Vote-by-Mail) Application Solicitud de Votante Ausente Permanente (Votación por correo)

Please mail this by **October 4th** to become a Permanent Absentee Voter for the November 2004 General Election.
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Please Print (Escriba en letra de molde):

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Residence Address (Dirección donde vive)

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Signature (Firma)

Date (Fecha)

FORM 001-00000000



Permanent Absentee Voter (Vote-by-Mail) Application

Solicitud de Votante Ausente Permanente (Votación por correo)

Please mail this by **October 4th** to become a Permanent Absentee Voter for the November 2004 General Election.
 Envíe esta solicitud por correo para el **4 de octubre**, o antes, para ser Votante Ausente Permanente en las Elecciones Generales de noviembre de 2004.

Please Print (Escriba en letra de molde)

First Name (Nombre): Middle Name (Segundo nombre): Last Name (Apellido): Telephone Number (Número de teléfono):

Residence Address (Dirección donde vive)

Mailing Address (Dirección postal)

City (Ciudad), State (Estado), Zip (Código postal)

City (Ciudad), State (Estado), Zip (Código postal)

This application will not be accepted without the proper signature of the applicant. I hereby apply for Permanent Absentee Voter status. Esta solicitud no se aceptará sin la firma debida del solicitante. Por la presente solicito condición de Votante Ausente Permanente.

Signature (Firma)

Date (Fecha)

OSP 04-04572



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Signature (Firma)

Date (Fecha)

OSP 04-04572

IF SOMEONE CAN'T READ OR UNDERSTAND ENGLISH HE OR SHE SHOULDNT BE VOTING! (REGARDLESS OF WHERE THEY COME FROM!)

PREPARED STATEMENT OF ARTURO VARGAS, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF LATINO ELECTED AND APPOINTED OFFICIALS (NALEO) EDUCATIONAL FUND



NALEO Educational Fund empowering Latinos to participate fully in the American political process

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Executive Director

Mr. Arturo Vargas

Testimony

by

Arturo Vargas, Executive Director
National Association of Latino Elected and Appointed Officials
(NALEO) Educational Fund

submitted to

the United States House of Representatives Committee on
the Judiciary, Subcommittee on the Constitution
on Section 203 of Voting Rights Act of 1965

Washington, D.C.
November 22, 2005

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Chairman Chabot, Ranking Member Nadler and distinguished members of the Subcommittee: On behalf of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, we are grateful for the opportunity to submit this written testimony and share our perspectives on the reauthorization of Section 203 of the Voting Rights Act of 1965 (VRA)¹, which has served as a powerful tool for eradicating barriers to Latino participation in our nation's democracy.

The NALEO Educational Fund is a non-profit, non-partisan organization that empowers Latinos to participate fully in the American political process, from citizenship to public service. We carry out this mission by developing and implementing programs that promote the integration of Latino immigrants into American society, developing future leaders among Latino youth, providing training and technical assistance to the nation's Latino elected officials, and conducting policy analysis and research on Latino civic participation. The NALEO Educational Fund's constituency includes the more than 6,000 Latino elected and appointed officials nationwide.

Through the NALEO Educational Fund's comprehensive program of research, policy development, and voter engagement efforts, we have gained extensive knowledge about the impact of Section 203 on Latino political participation and empowerment. Since 1984, we have published our annual *Rosters and Directories of Latino Elected Officials*, which contain a listing of Latino elected officials throughout the United States at every level of office. By charting the growing number of Latino elected officials, these publications serve as a gauge of Latino electoral progress. We have also produced several analyses of trends in Latino voting and registration, and in the number of Latinos who run for federal and state office. These materials include our biennial *Latino Election Handbooks*, and our *Latino Election Profiles*, which we publish during the Congressional/Presidential election seasons.

Through our innovative *Voces del Pueblo* non-partisan voter engagement program, we have gained first-hand knowledge about the barriers Latinos confront in registering to vote and voting. Since the inception of the program in 2001, the NALEO Educational Fund has worked closely with elections officials, the media, and other community-based organizations to mobilize

¹Generally, two sections of the Voting Rights Act, Section 203 and Section 4(f)(4) impose obligations on certain jurisdictions to provide language assistance to Latino, and American Indian, Asian American, Alaskan Native minority language voters. While the two sections contain different criteria that trigger coverage for a particular language group, the nature of the language assistance requirements is the same. Although this testimony primarily refers to Section 203, the policy considerations supporting Section 203 renewal also apply to the language assistance required by Section 4(f)(4).

Latino voters across the country who do not yet fully participate in the electoral process. This mobilization effort has two important components. First, we listen to Latino voters by conducting voter forums, where we learn about the issues of concern to the voters and their perspectives on the voting and elections. We have conducted these forums in several cities with significant Latino populations, including Albuquerque, Chicago, Denver, Houston, Los Angeles, Miami, New York, and Phoenix. Additionally, we engage the voters in the community by sending them positive motivational and informational messages through phone, mail and the media. Over the years, we have reached more than 500,000 Latino voters across the country, in states including Arizona, California, Colorado, New Mexico, New York and Texas.

Our *Voces del Pueblo* program also includes our national bilingual voter information and protection hotline, *1-888-VE-Y-VOTA*, which has provided assistance to more than 15,000 callers since September 2004. Through the *VE-Y-VOTA* hotline, we have been able to ensure that thousands of Latino voters across the country have access to information regarding voter registration, where to vote, and how to cast a ballot. Our hotline has also helped us document the challenges facing Latinos and other voters who are not yet fully proficient in English when they attempt to participate in the electoral process. Additionally, in the May 2005 Los Angeles municipal elections, we conducted a survey and monitoring of 89 polling sites to evaluate their accessibility to Latino and other language-minority voters.

Our policy development efforts on the reauthorization of the VRA have included a joint effort with members of the Leadership Conference of Civil Rights, the nation's most effective civil rights coalition, to educate policymakers and the public about the importance of renewing and restoring the key provisions of the VRA that will expire in 2007. We have also worked closely with our constituency of Latino elected officials, to provide them with information about the impact of VRA reauthorization on our community, and to mobilize to take action for reauthorization.

Our research, voter engagement and policy development efforts have shaped the portrait of the Latino community and the impact of Section 203 that I would like to present in this testimony. It is a portrait with two faces. One is the face of a community that has made significant political progress since the last VRA reauthorization in 1982 – and there is no doubt that Section 203 has played a key role in our electoral advances. The other is the face of community that still faces considerable challenges in becoming fully engaged in the political process. This is a community of Latinos who are eager to have their voices heard on Election Day. They embrace our nation's civic values, but still confront educational and language

barriers to civic participation. For these Latinos, the reauthorization of Section 203 is critical to ensuring fair and full access to the electoral process.

LATINO POLITICAL PROGRESS SINCE THE 1980'S

In the early 1980's, when Congress engaged in the last major reauthorization of the VRA, the Latino community was just starting to gain a foothold in the political arena. According to data compiled by the U.S. Bureau of the Census, 3.1 million Latinos voted in the 1984 Presidential election, and they comprised only 3% of the nation's voters. In 1984, there were 3,128 Latino elected officials serving in office nationwide.

In the two decades following the last major VRA reauthorization, Latinos have made significant political advances. U.S. Census data for the November 2004 Presidential election indicate that 7.6 million Latinos voted, an increase of 145% since 1984. During the same period, the number of non-Latino voters grew by only 20%. In January 2005, there were 5,014 Latino elected officials nationwide, an increase of 60% since 1984. Latino elected officials have made particularly notable gains at the highest levels of office. In 1984, no Latinos served in the U.S. Senate. There were only nine Latino members of the U.S. House of Representatives, five statewide elected officials, and 105 state legislators. In 2005, two Latinos now serve in the U.S. Senate, and 23 serve as Representatives in the House. There are nine Latinos serving in statewide office, and 232 in state legislatures.

The VRA's language assistance provisions currently assist a large number of Latinos throughout the nation. More than three-quarters (78%) of Latino adult U.S. citizens live in jurisdictions that are covered by either Section 203 or Section 4(f)4 for Spanish language assistance. This coverage includes 382 jurisdictions in 20 different states. It encompasses both areas that are traditional centers of Latino population -- such as California, the Southwest, Florida, and New York -- as well as areas with emerging Latino populations -- such as Nevada, Massachusetts, Washington, and even some counties in Kansas, Oklahoma and Nebraska.

The language assistance provided to Latino voters under Section 203 has contributed greatly to the political progress made by the Latino community. Certainly, it is not the only factor responsible for this progress, but it is a critical one. In the last two decades, there have been a broad range of political empowerment efforts in the Latino community, from programs to increase naturalization among Latino legal permanent residents, to voter registration drives and voter engagement activities, to leadership development and skills training for future and current Latino public servants. Both Section 2 and Section 5 of the VRA have also helped protect the right of Latinos to elect the candidates of their choice. Latino community mobilization efforts

help bring Latinos to the doors of democracy. Section 2 and Section 5 help keep those doors open to fair electoral opportunities. And the language assistance provided by Section 203 ensures that Latino voters can enter those doors unimpeded by barriers of language or unequal educational experiences.

While there is still more academic research to be done to demonstrate the impact of language assistance on minority voter turnout, at least one recent study has suggested that Section 203 may positively affect Latino voting. In a 2005 article, Professor Michael-Jones Correa examined the impact of Section 203 coverage on voter participation in the 1996 and 2000 Presidential elections.² He found that Latinos living in areas covered by the language provisions of the VRA were 4.4 % more likely to vote than their counterparts residing elsewhere. He concluded that for Latinos, residing in an area offering voting assistance under Section 203 was significantly and positively correlated with voter turnout.

SECTION 203 IS CRITICAL FOR CONTINUED LATINO POLITICAL PROGRESS

While the Latino community continues on its path to full political engagement and representation, we have not yet reached that goal, and we will not reach it without the reauthorization of Section 203. Our electorate is growing, but we are still under-represented among the nation's voters. According to November 2004 Census data, Latinos comprised 13% of the nation's adult population, but only 6% of its voters in the last Presidential election. Only 47% - less than half of the nation's Latino eligible population (U.S. citizen adults) - cast ballots in the election, compared to 65% of the nation's non-Latinos. Our 5,014 Latino elected officials are only about 1% of the total elected officials in the United States.

When Congress first amended the VRA to provide language assistance to Latinos in Section 203, it was deeply concerned about Latino access to educational opportunities and the right of Latinos who are not yet fully proficient in English to participate in the electoral process. Congress recognized that some Latinos, both native-born and naturalized citizens, need language assistance to have full access to our democracy. Our naturalization laws require most newcomers to have a basic level of English fluency, but that may not be sufficient to navigate some of the intricacies of the voting and registration process, and to read and understand complex election information materials. For example, California's *Official Voter Information Guide* for its November 8, 2005 statewide special election is 80-pages. It provides detailed information on eight ballot measures, including a summary, "pro" and "con" arguments, a

² Jones-Correa, Michael. 2005. "Language Rights Provisions Under the Voting Rights Act: How Effective Are They?" *Social Science Quarterly* 86(3): 549-564.

legislative and fiscal analysis, and the actual text of the ballot measures. This guide is written at a level of English that would present a challenge to native-born citizens in our nation who are fully proficient in English, let alone a newcomer who has a basic level of fluency.

Additionally, our naturalization laws exempt some older newcomers with lengthy legal residency in the United States from the requirement to demonstrate proficiency in the English language when they become U.S. citizens. This exemption recognizes that older newcomers who are long-standing residents of the nation have acquired civic participation skills and life wisdom that allow them to engage in the electoral process, even if they are not yet fully proficient in the English language.

Finally, there are native-born Latinos who have limited English proficiency because they lack equal access to our nation's education system. In Section 203 of the VRA, Congress makes this specific finding with respect to language minority citizens: "The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them resulting in high illiteracy and low voting participation." Thus, Congress recognized that Section 203's language assistance provisions would help ensure the full electoral participation of both Latino newcomers and the native-born. Our nation's elected leadership continues to recognize that educational inequities still exist in our society. For example, Congress enacted and the President signed into law the No Child Left Behind Act of 2001 to help close the achievement gap that still exists between students of different socio-economic backgrounds.

The language assistance provided by Section 203 is particularly needed as our states move forward to implement the election reform required by the Help America Vote Act of 2002 (HAVA). To comply with HAVA's requirements, jurisdictions throughout the nation will be utilizing election systems with new voting technology for the first time in 2006. Voters will be casting ballots with unfamiliar, and in some cases, more complicated systems than are currently in use. It is critical that language minority voters obtain the assistance they need when learning how to use these systems properly.

The Latino community still faces the linguistic and educational challenges that were the catalyst for Congress' initial enactment of the language assistance provisions of the VRA. According to 2000 Census data, 3.9 million Latinos - more than one out of four Latino adult

U.S. citizens (27%) - have limited English proficiency (hereinafter, the adult U.S. citizen population will be referred to as the "CVAP"). In comparison, only 2.3% of the nation's non-Latino CVAP has limited English proficiency. Census 2000 data also reveal that more than one-third (36%) of the Latino CVAP did not graduate high school, and one out of 10 (10.5%) has less than a seventh-grade education. In comparison, only 16.8% of the non-Latino CVAP did not graduate high school, and only 1.8% has less than a seventh grade education (Table 1).

Table 1
Educational Attainment of CVAP in 2000

Education Level	Latino*	Non-Latino
Less than 7 th grade	10.5%	1.8%
7 th grade – 12 th grade (no high school diploma)	25.4%	15.0%
High school graduate	26.3%	29.6%
Some college – Bachelor's degree	34.1%	45.5%
Master's, professional or doctorate degree	3.6%	8.1%

*Column total does not equal 100% because of rounding
Compiled from: U.S. Census Bureau, Census 2000 Sample Data File

Our own voter engagement work with the Latino community demonstrates that the language assistance required under the VRA is critical to ensure that Latinos can surmount the barriers to political participation, and it is crucial that jurisdictions provide this assistance throughout the entire registration and voting process. Callers to our *VE-Y-VOTA* hotline from Section 203 covered jurisdictions reported problems when they contacted election officials prior to Election Day to obtain basic election information, such as the location of their polling place or their registration status. (An April 2005 report on the hotline is attached). When some of these voters called county election information hotlines, there were no bi-lingual personnel available to assist them, or the personnel hung up on them when they asked for Spanish-language assistance. In other cases, callers were put on hold or experienced long waits until a bi-lingual staffer could be located. These experiences made it extremely difficult for callers to receive important information needed to cast a ballot in the election.

Overall, we believe that language barriers prevented Latinos from getting basic informational materials about the election prior to Election Day. We asked *VE-Y-VOTA* callers

about their experience is receiving such election materials as sample ballots or polling place information in states where jurisdiction mail such information to voters. Only 39% of the Spanish-speaking callers reported having received information from their jurisdictions, compared to 45% of the English-speaking callers.

Additionally, callers from Section 203 jurisdictions reported that there were no bi-lingual pollworkers available to assist them on Election Day, or that their polling places did not have bi-lingual election materials. In many cases, the lack of bi-lingual pollworkers made it impossible for Latino voters to resolve basic questions about voting at their polling sites. For example, callers were unable to obtain assistance with operating voting equipment, or determining why their names did not appear on the voter rolls. Because many Latino voters are young or are naturalized citizens, they are still learning about the electoral process. Some of our callers identified themselves as first-time voters, and expressed the humiliation they felt when there was no language assistance available from pollworkers. We have also learned that some pollworkers view Latinos who need language assistance at the polls as "problem voters" and ignore them or treat them rudely. These kinds of experiences create significant obstacles to full Latino participation in our nation's democracy.

When we actually surveyed polling sites in the 2005 Los Angeles municipal elections, we found the same problems with lack of Spanish-language informational materials reported by our *VE-Y-VOTA* callers. (A copy of the report on the survey is attached.) About 15% of the polling sites did not have Spanish-language sample ballots available, and a larger percentage lacked other important informational materials in Spanish. For example, about one-third did not have Spanish-language "Voter Bill of Rights," about one-half lacked Spanish-language information on provisional voting, 57% did not have Spanish-language information about hotline numbers that voters could call to report voting problems, and 80% lacked Spanish-language information on how to contact election officials.

The Department of Justice's (DOJ) Section 203 enforcement actions also demonstrate that lack of compliance with Section 203 has a serious detrimental impact on Latino political participation. Since 2002, the DOJ has filed 14 cases raising claims under the minority language provisions of the VRA, and 13 of those cases relate to Section 203 compliance by jurisdictions required to provide assistance to Latino voters.³ These 13 cases involve jurisdictions in six

³The information that follows regarding the Department of Justice's Section 203 enforcement actions is taken primarily from the website of the U.S. Department of Justice, Civil Rights Division, Voting Section Home Page at <http://www.usdoj.gov/crt/voting/litigation/caselist.htm>.

different states – California, Florida, Massachusetts, New York, Washington, and Texas. They include jurisdictions in traditional centers of Latino population, such as the city of Paramount in southeast Los Angeles County. But the DOJ has also focused on jurisdictions with emerging Latino populations where election officials are recognizing the importance of providing language assistance to their growing Latino communities. These include jurisdictions such as Yakima County in Washington, Suffolk County in New York, and the City of Boston.

There are many common violations of Section 203 cited by the DOJ in its complaints against covered jurisdictions. These generally include failure to adequately recruit, train and maintain an adequate pool of bilingual pollworkers; failure to translate election materials, including the official ballot, notice and instructions provided at election sites; and failure to translate other materials provided to the public before elections, such as legal notices, voter education materials, and Website information. In many cases, jurisdictions failed to translate materials containing information related to the basic mechanics of voter registration and voting, such voter registration forms, announcements of election dates, poll location information, instructions for using voting equipment, and provisional and absentee ballot materials. In the City of Boston, the DOJ alleged the city engaged in additional egregious practices, such as treating Latino voters disrespectfully, refusing to permit Latino voters to be assisted by the person of their choice, improperly influencing, coercing or ignoring Latino voters' ballot choices, and refusing to provide provisional ballots to Latino voters. The DOJ's enforcement actions reveal that 30 years after the initial enactment of Section 203, the failure of jurisdictions to provide Latino voters with language assistance still prevents many Latinos from obtaining full and fair access to the electoral process.

JURISDICTIONS INCUR ONLY MODEST COSTS FOR SECTION 203 COMPLIANCE

One concern raised about Section 203 is that its requirements impose substantial costs on covered jurisdictions. However, two assessments by the General Accounting Office – one in 1984 and one in 1997 – concluded that for jurisdictions which were able to provide complete data about their expenses, the costs of Section 203 compliance were only a small portion of total election costs.⁴ More recently, the findings of a nationwide study conducted by Dr. James Thomas Tucker, Adjunct Professor, Barrett Honors College at Arizona State University and

⁴ See U.S. General Accounting Office, *Bilingual Voting Assistance: Costs of and Use During the 1984 General Election* (1986), and U.S. General Accounting Office, *Bilingual Voting Assistance: Assistance Provided and Costs* (1997).

Dr. Rodolfo Espino, Assistant Professor of Political Science at Arizona State University suggest that the costs of Section 203 compliance are quite modest.⁵ According to those findings, 59.1% of the jurisdictions reporting oral language assistance expenses and 54.2% of the jurisdictions reporting do not incur any additional costs. The jurisdictions which responded to this study reported a variety of reasons that they were able to provide language assistance in a cost-effective manner, including their hiring practices for bilingual pollworkers or the assistance provided by election officials and community volunteers to translate materials. Some jurisdictions minimize costs by targeting language assistance to the areas and voters that require it. Ultimately, it appears that the price of making the fundamental right to vote more accessible to all of our nation's citizens is quite small, and that jurisdictions throughout the nation can do so in a cost-effective manner.

SECTION 203 AND THE FUTURE OF THE LATINO ELECTORATE

When we look to the future, the language assistance provisions of the VRA are particularly important because of the critical role they play for Latino naturalized citizens in our nation. According to 2000 Census data, naturalized Latinos comprise 26.2% of the nation's Latino CVAP, but they are an even larger share of those Latinos who are not fully proficient in the English language. Of those Latino adult citizens who report limited English language ability, 53.6% are naturalized citizens. Yet we know that the Latino naturalized are an important segment of the Latino electorate, and they are eager to participate in the political process. In the November 2004 Presidential election, more than one out four Latino voters (28%) were naturalized citizens. Ensuring that these voters continue to obtain the language assistance required by the VRA is key to the future growth and vitality of the Latino electorate in this nation.

ENHANCING SECTION 203 DURING THE REAUTHORIZATION PROCESS

The NALEO Educational Fund also supports some limited enhancements to Section 203 which will provide better access to the electoral process for language minority voters. First, Congress should lower the numerical threshold for triggering Section 203 coverage from 10,000 limited English proficient, language minority citizens to 7,500. This amendment will improve the opportunities for participation in jurisdictions with emerging Latino and Asian populations.

⁵ See Testimony of Dr. James Thomas Tucker, Attorney, Ogletree Deakins, P.C., Adjunct Professor, Barrett Honors College at Arizona State University, Phoenix, Arizona, Before the House Committee on the Judiciary, Subcommittee on the Constitution, Oversight Hearing on the Voting Rights Act: Section 203 – Bilingual Election Requirements, Part II, November 9, 2005.

Similarly, the Census Bureau currently uses data from its decennial “long form” enumeration to determine which jurisdictions are covered by Section 203. However, the Bureau is in the process of replacing the long form with the American Community Survey, which will provide updated data on a more frequent basis than the decennial Census. Congress should amend the VRA to mandate the use of ACS data, at 5-year intervals, for the Section 203 determination, and should appropriate funding to ensure that the Bureau can fully implement the ACS in years to come. Using ACS data for the Section 203 coverage determination will help ensure full VRA compliance in communities that undergo rapid demographic changes.

During the last two decades, the NALEO Educational Fund has had the privilege of working hand-in-hand with the Latino community as we continue our journey toward full political and civic integration into our democracy. When Congress first enacted the Voting Rights Act, it recognized that the right to vote is one of the most fundamental rights our nation bestows upon our citizens, and it believed it needed to take decisive action to protect minorities from unfair and discriminatory treatment in the electoral process. Congress understood that protecting our right to vote is not nearly a matter of safeguarding an individual right – it is also critical to ensuring that our democracy remains representative and inclusive. Through our work, we have seen the dedication and commitment of Latinos to participation in the political process. Because Latinos are the fastest growing segment of our nation’s electorate, Latino participation will determine the course of our democracy’s future. We urge Congress to renew Section 203 of the VRA with some limited enhancements to ensure that Latino access to the electoral process is not unfairly impaired by linguistic and educational barriers. This renewal will make our democracy stronger, more vital, and more responsive to all our citizens’ voices.

Thank you for this opportunity to submit our testimony.

1-888-VE-Y-VOTA

A National Effort to Protect Latino Voters in the 2004 Presidential Election

A report prepared by:

**NALEO Educational Fund
April 12, 2005**

Acknowledgements

The NALEO Educational Fund would like to thank Univision Communications, Inc., *La Opinión*, the Mexican American Legal Defense and Educational Fund (MALDEF), the National Council of La Raza (NCLR), and the rest of our partners across the country for partnering with us and supporting the 1-888-VE-Y-VOTA project and the general *Voces del Pueblo* campaign, which seeks to increase electoral participation among low propensity Latino registered voters. We also would like to express special thanks to the hundreds of volunteers from around the community, who played an invaluable role as hotline operators. Without their time and commitment, this effort could not have been a success.

We are sincerely grateful to the following supporters, whose generous support of our *Voces del Pueblo* campaign voter engagement helped make this report and our 1-888-VE-Y-VOTA project possible:

AARP
Advance America
Altria Group, Inc.
America's Families United
Bank of America
Carnegie Corporation of New York, Inc.
Countrywide
Fiesta Mart
The Ford Foundation
Houston Endowment
James Irvine Foundation
Marguerite Casey Foundation
Tides Foundation
Univision Communications Inc.
Wells Fargo

The NALEO Educational Fund is a non-partisan non-profit 501(c)3, committed to empowering Latinos to participate fully in the American political process, from citizenship to public service.

Executive Summary

- The 1-888-VE-Y-VOTA hotline was a national effort to provide Latino voters nationwide with a fully bilingual (English/Spanish) telephone resource where they could receive real-time assistance from live operators prepared to answer any question pertaining to the electoral process. 1-888-VE-Y-VOTA was operational from September 20, 2004 through November 9, 2004 and operated seven days a week.
- The program assisted 12,048 callers in 42 different states (not including calls received from Puerto Rico, Washington D.C. and Spain) and 371 different counties within those states. The highest number of calls from a single jurisdiction came from Los Angeles, California, where we received 4,127 calls.
- Nearly three-fifths of all calls we received involved a request for some form of information about casting a ballot or the election in general. Of these calls, 60% came from voters who did not know where their polling place was located.
- Another one-third of the calls we logged were regarding the process of registering to vote. Of these calls, 38% came from callers who did not know where to register to vote. Another 35% of "Voter Registration" calls were from voters who had registered to vote but never received any form of confirmation that their registration had been received and processed by their election official, or any election information, such as a sample ballot, that might suggest that they were registered to vote.
- Analyses in this report demonstrate that there is a serious lack of basic information about registering to vote and voting among many eligible Latino citizens. Further, the barriers faced by Latino voters in obtaining this critical information seem to stem from systemic problems in the administration of elections within the United States.
- With regard to the accessibility of election information among Latino U.S. citizens, four of every ten people who called our hotline said they had not received any information about voting or the election from their local election officials. More importantly, we found that Spanish-speaking Latinos were less likely to receive a sample ballot or information regarding the location of their polling place, than were English-speaking Latinos. Three-fifths of the Spanish speakers who called the hotline said they had not received any election information from their respective officials.
- On Election Day, 73 voter protection complaints were received from voters in 16 different states. The complaints we received from these voters revealed that, once again, a lack of language accessibility and administrative breakdowns represented a serious obstacle in the way of Latino voters trying to cast their ballots on Election Day.
- Voter protection complaints generally dealt with difficulties, encountered by Spanish-speaking voters, in receiving assistance in Spanish from poll workers. Many Latino voters with limited English proficiency also reported some trouble in casting their ballot because they could not find Spanish language or bilingual (English/Spanish) materials at the polling place to help them cast their ballot.

Introduction

In 2004, the NALEO Educational Fund led a national effort that enlisted two other prominent Latino leadership organizations and the national Spanish-language media in a nationwide program to ensure that Latino voters had access to the information they needed to cast their ballots in the Presidential election. The Mexican American Legal Defense and Educational Fund (MALDEF), the National Council of La Raza (NCLR), Univision Communications Inc., and *La Opinión* were brought together to coordinate and support a national voter information and voter protection hotline specifically targeting Latino voters in 2004—1-888-VE-Y-VOTA. The effort marked an unprecedented national partnership between national Latino leadership organizations and the Spanish-language media, to educate and inform Latino voters nationwide. The hotline was staffed by bilingual operators (English/Spanish) and provided a vital source of information on every aspect of the election process, from voter registration, to locating voters' polling places, and monitoring complaints alleging voting rights violations. This national hotline was also one of the only national non-partisan voter protection programs to systematically document and categorize calls received from Latino voters before, during, and after Election Day.

Leading up to the 2004 Presidential election, research and our own experience in engaging and mobilizing Latino voters showed that: 1) Latinos did not have a reliable and accurate source of information about voting and elections; 2) there was very little in the way of concrete documentation regarding problems or barriers frequently faced by Latino voters during elections, and 3) Latinos were more likely to not have their votes counted.¹ Government studies into the challenges faced by election officials across the country and those encountered by federal departments such as the Voting Section of the Civil Rights Division of the U.S. Department of Justice (DOJ) have repeatedly cited the lack of adequate documentation regarding specific problems faced by voters during elections. These studies characterized the lack of documentation as a serious challenge to effectively improving the elections process. In a mail-survey conducted by the Government Accounting Office (GAO) following the 2000 Presidential election, 80% of election officials nationwide said they did not conduct any systematic or comprehensive documentation of the problems voters may have encountered in that election.² In an assessment of the DOJ's activities to address past election-related irregularities, the GAO determined that the department's Voting Section did not have a reliable method to consistently record and document telephone calls received alleging voting irregularities.³ According to the report, the lack of documentation had in the past limited the DOJ's ability to report detailed information regarding the types of problems voters report to the Voting Section. Our national bilingual hotline was an attempt to fill this void by documenting Latino voters' complaints and questions in the 2004 Presidential election. Through this hotline, we collected important information that has helped us identify the problems encountered by

¹ United States General Accounting Office. "Elections: Statistical Analysis of Factors That Affected Uncounted Votes in the 2000 Presidential Election." Report to the Ranking Minority Member, Committee on Government Reforms, House of Representatives. October 2001.

² United States General Accounting Office. "Elections: Perspectives on Activities and Challenges Across the Nation." Report to Congressional Requesters. October 2001.

³ United States General Accounting Office. "DOJ Activities to Address Past Voting Irregularities." Report to Ranking Minority Member of the House Committee on Government Reform, Ranking Minority Member of the House Committee on the Judiciary, and Ranking Member of the Senate Committee on Governmental Affairs. September 14, 2004.

many Latino voters on Election Day. This report highlights the types of problems reported by these voters in the November 2004 election, and expresses our concerns with the current system for administering elections in the United States.

The objectives of this report are to:

1. Provide an overview of the 1-888-VE-Y-VOTA National Voter Information and Protection Program.
2. Report on the specific problems encountered by Latinos at the polls during the November 2004 election.
3. Assess the barriers faced by Latinos in the election, and suggest some important areas for further research and discussion as we prepare for elections in 2006.

Background

In the past decade, Latinos have been not only the fastest growing population group in the country (comprising nearly 14% of the total U.S. population) but also one of the fastest growing electorates. In 2004, the NALEO Educational Fund estimated that more than 16 million Latinos would be eligible to participate in the 2004 Presidential election⁴. We also estimated that among eligible Latinos, nearly 9 million would be registered to vote in November 2004, comprising about 7% of the total registered voters. These figures underscore the growing presence of Latinos in the American political process. However, our work across the country in mobilizing Latino registered voters to turnout and vote has taught us that a significant share of Latinos possess voter demographics that make them more susceptible to structural barriers (e.g. unprocessed voter registration forms, lack of election information, monolingual poll workers) within the elections process, that often make the act of voting more difficult than it should be. Compared to the general electorate, Latino registered voters are more likely to be new or infrequent voters, and tend to be less familiar with the election process. These registered voters are also more likely to have limited English proficiency. With an understanding of the negative impact that these structural barriers can have on the turnout potential of Latinos, 1-888-VE-Y-VOTA was developed as a new, yet critical, component of the NALEO Educational Fund's *Voces del Pueblo* voter mobilization program. The intent of the hotline was to ensure that every eligible Latino would be able to cast a ballot on Election Day. The two primary goals of the hotline were: 1) To provide Latinos with the specific information they needed to cast their ballots in the election; and 2) To monitor and respond to allegations of voter intimidation and suppression.

Our national Latino voter information and protection program was housed at the NALEO Educational Fund's national headquarters in Los Angeles. During this effort, we utilized a total of 30 phone lines. Thousands of calls from 42 different states, not including calls received from Washington D.C. and several other calls received from Puerto Rico, were answered and documented.⁵ These telephone calls were documented using the NALEO Voter Information Database (NVID). The database enabled us to generate a detailed log and to categorize every call received by our operators.

Outreach for the hotline was conducted through an intensive national media campaign involving Univision Communications Inc. and La Opinión. The 1-888-VE-Y-VOTA outreach campaign was a multi-prong outreach campaign utilizing television, radio, and print media. Public Service Announcements (PSA's) informing voters of the hotline were produced for both television and radio.⁶ Univision television and radio affiliates aired the PSA's across the country, providing information about the hotline to the largest Latino media markets in the country. Additionally, local Univision affiliates coordinated a series of news stories covering the intent of the hotline and the type information it provided. La Opinión led the outreach effort for the hotline in California, providing extensive print media coverage. An informational banner was produced and printed in La Opinión newspapers for a 15-day period.⁷ The newspaper's reporters also

⁴ NALEO Educational Fund (2004). "2004 Latino Election Handbook." Los Angeles, CA.

⁵ See Appendix 1 for a detailed table of state-by-state total calls.

⁶ See Appendix 3 for a copy of the PSA script.

⁷ See Appendix 4 for a copy of La Opinión banner.

published several articles chronicling the hotline's efforts. Through *La Opinión*, the hotline's telephone number (1-888-VE-Y-VOTA) reached over 1.5 million of its readers. Thanks to the committed effort on the part of Univision Communications and *La Opinión*, our national media campaign disseminated information about the hotline in media markets, which combined, reach the largest share of the Latino population in the United States.

The outreach campaign was also strengthened by a grassroots partnership with National Voice, a national coalition of more than 100 community organizations, and the Latino Leadership Roundtable in Alameda, California. National Voice helped to disseminate information about the hotline through its grassroots mobilization efforts nationwide. The hotline number, 1-888-VE-Y-VOTA, was printed on T-shirts worn by organizers for community organizations working with National Voice to conduct mobilization work in their respective communities. The Latino Leadership Roundtable also distributed T-shirts with the hotline's telephone number to a collective of street vendors who promoted the hotline as they conducted their vending activities.

Program Overview

Beyond our national outreach campaign, the success of our hotline was, in large part, a product of several elements: our operators, adequate information materials and tools, extensive hours of operation, and detailed documentation.

1-888-VE-Y-VOTA's telephone lines were staffed by trained paid-operators. All the operators hired to answer telephone calls underwent two separate trainings, each a total of two hours. First, the operators attended a general training that provided them with critical information regarding the process of registering to vote and voting in the United States. The second training was conducted in October 2004 and focused on identifying and documenting voter protection problems. In this training, operators were instructed on how to effectively document voter protection complaints using NALEO's Voter Information Database (NVID). The training also provided the workers with information regarding the rights of voters at the polling place. Trainings emphasized the new requirements regarding the right to vote by provisional ballot and the need for some voters to provide identification at the polling place.⁸ Additionally, operators were trained to locate polling places through various sources, including the Internet. A total of 114 operators were trained, beginning in September and on through Election Day.

In order to ensure that callers from every state would receive consistent and accurate information, a comprehensive resource guide that compiled important information from every state was assembled.⁹ This guide provided our operators with state-by-state information on registration deadlines, absentee voting, early voting, and information on how to contact local election officials. The guide also included detailed state profiles for the seven states with large concentrations of Latino voters (Arizona, California, Colorado, Florida, New Mexico, New York, Texas). The profiles contained detailed information regarding the election process in that state, including extensive directories of all local election officials in the state and copies of voter information materials listed on state websites.

⁸ See Help America Vote Act of 2002, § 302a and § 303b.

⁹ NALEO Educational Fund (2004). *1-888-VE-Y-VOTA: Operator Resource Manual*. Los Angeles, CA.

A second guide compiling important voter protection information was also prepared for the operators. This guide provided important information regarding state-specific procedures governing provisional voting and identification requirements. The guide also included an updated list of jurisdictions that are required to provide language assistance to language-minority voters under Sections 203 and 4(f)4 of the Voting Rights Act. These materials ensured that our operators would be able to provide callers with timely and accurate information, regardless of the caller's state of residence.

1-888-VE-Y-VOTA was operational from September 20, 2004 through November 9, 2004 and operated seven days a week. However, due to the low volume of calls received in the first two weeks of operation, the hotline initially operated between the hours of 8:00 AM (PST) through 6:00 PM (PST). Beginning the third week of operation, the hours were expanded to receive calls from 8:00 AM (PST) through 8:30 PM (PST). We installed a voice mail system to answer calls after normal hours of operation. Callers who left a voice-mail message were contacted the following day by our operators, who helped to answer questions and completed the documentation process.

The collection of standardized data from all the calls we received was managed electronically through our National Voter Information Database (NVID). Every operator answering telephone calls was assigned to a computer terminal networked into the NVID. Using the NVID database interface created by the NALEO Educational Fund, operators logged and documented every call they received; including follow up calls from our voice mail system.¹⁰ The NVID interface allowed for a standardized method of real-time data entry of the calls answered by operators.

Using the NVID, standardization of inquiries was accomplished by categorizing calls into one of three general inquiry types: "Voter Registration," "Voter Information," or "Voter Protection." Additionally, inquiries were also designated a sub-category or "Reason Detail" that provided more specific information regarding the nature of individual calls. The NVID system of categorization allows us to obtain a more detailed assessment of the problems and specific needs expressed by voters in this past election. The table above provides a layout of NVID categories and their respective sub-categories (Table 1).

¹⁰ For the purpose of this report, logged calls may also be referred to as "inquiries." The term "inquiry" refers to any call appropriately logged in the NVID.

Table 1.

NVID Category Map	
1. Voter Registration	
•	Am I registered?
•	Where do I register?
•	When to register?
•	Who can register?
•	Change of address.
•	Registering by mail.
•	How do I register?
2. Voter Information	
•	Absentee voting.
•	Early voting.
•	Election information.
•	Polling place.
•	Language assistance.
•	General voting.
3. Voter Protection	
•	Ballot of any type denied.
•	Denied language assistance.
•	Assistance with ballot denied.
•	Disability assistance denied.
•	Provisional ballot denied.
•	Poll worker assistance denied.
•	Denied entrance to poll.
•	Polling place closed early.
•	Polling place opened late.
•	Third-party assistance denied.

General Program Outcomes

In total, the program assisted 12,048 callers. Of the total calls received, 11,480 were officially logged in our NVID system (for purposes of this report logged calls may also be referred to as "inquiries").¹¹ The inquiries documented originated from 42 different states and 371 different counties.¹² The largest number of calls were received from the county of Los Angeles, California. In Los Angeles County alone, we logged 4,127 calls, accounting for more than one-third of all the calls received. At least one hundred inquiries were logged for each of fourteen other counties, all within states with significant Latino populations (Table 2).¹³

Table 2.

High Demand Counties

(Counties with more than 100 calls)

Los Angeles, CA	4,127
Harris, TX	861
Orange, CA	600
San Bernardino, CA	529
Cook, IL	342
Riverside, CA	340
Maricopa, AZ	229
Queens, NY	214
Bronx, NY	211
Dallas, TX	206
El Paso, TX	150
New York, NY	149
Kings, NY	136
Bexar, TX	132
Miami-Dade, FL	112

Of the total calls received, 58% (7,005) were received within the week preceding the election, between October 25 and November 2, 2004. On Election Day alone, operators answered calls from and assisted 2,726 callers. These figures help to underscore the remarkable need for election information within the Latino community.

Our analysis of the data collected reveals that information pertaining to the process of registering to vote, and information about voting were the types of assistance most sought after by Latino

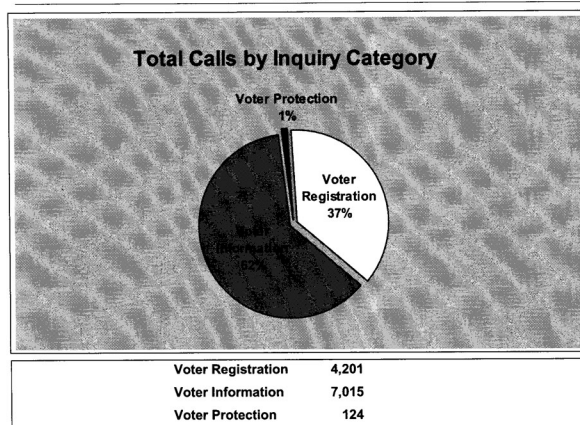
¹¹ The 12,048 total reflects 568 callers assisted by National Council of La Raza from their Washington D.C. headquarters on Election Day. Of these calls, a majority were requests for polling place locations retrieved from the 1-888-VE-Y-VOTA voice mail system. Because the calls were managed off-site, they were not formally logged by operators into the NVID and as such are not included in the assessment of inquiries below.

¹² See Appendix 2 for a general demographic summary of Latinos who called the hotline.

voters who called our hotline. Among the three NVID inquiry categories, nearly three-fifths of all calls pertained to "Voter Information." Another one-third of all inquiries were categorized as "Voter Registration." Only one percent of all the calls logged by our hotline pertained to "Voter Protection" calls.¹⁴ In total, hotline operators logged 124 calls as voter protection inquiries. While this figure may come as a surprise to election observers who anticipated widespread voter fraud to take place during the 2004 Presidential election, the small share of calls categorized as "Voter Protection" may have been attributed to a few factors: 1) Operators had a clear understanding of what was considered a voter protection complaint; and 2) Direct attempts to disenfranchise voters was not the central problem in this election. However, the complaints that were reported did help to identify broader systemic problems within the elections process.

Our analysis of the inquiries generated further demonstrates the great need expressed by Latino voters for basic information regarding registering to vote and voting in 2004. Ninety-nine percent of the calls logged by the program were from callers requesting information about registering to vote or how and where to vote (see Chart 1).

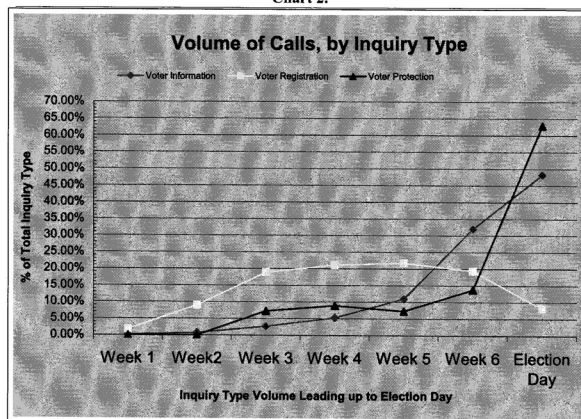
Chart 1.



¹⁴ For training purposes "Voter Protection" was defined as a series of instances where an eligible registered voter reported that they were turned away from their polling place or were not able to cast a ballot because they did not receive the necessary materials (e.g. sample ballot, official ballot) or assistance (e.g. disability assistance or where required, language assistance) from poll workers. Please refer to Table 1 above for a list of reasons categorized as "Voter Protection."

Throughout the duration of the program, the type of information requested by callers shifted as Election Day approached (see Chart 2). During the first phase of operation, between weeks two and three, we saw that information regarding voter registration was the primary concern for callers. As time progressed into the last two weeks of the hotline, we saw a shift in the type of information being requested by callers. By week five, the needs of callers were related to questions regarding absentee voting, early voting, and polling place location. By Election Day, providing information pertaining to "Voter Protection" and "Voter Information" were the primary functions of the hotline. On Election Day, there was a remarkable increase in the number of voters requesting information on where to vote and voters reporting complaints after attempting to vote. The number of "Voter Information" calls received that day accounted for nearly half of the category's total calls over the previous six weeks.

Chart 2.

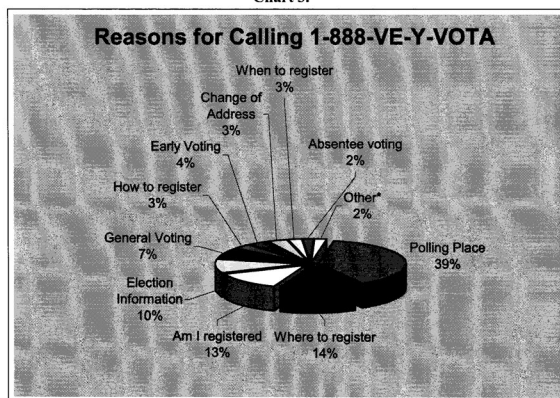


Detailed Assessment of Inquiries

Further analysis of the detailed reasons callers gave for calling our hotline reveals that there is a serious lack of basic information about registering to vote and voting among many eligible Latino voters (see Chart 3). We have termed this apparent dearth of basic information about elections an information-deficit within the Latino electorate, a deficit that presents a serious barrier to the accessible and equitable election process, to which all eligible citizens are entitled. Recent studies into the association between access to basic election information (e.g. sample ballots and polling place information) and turnout have demonstrated that access to such information can have a noticeable influence on turnout. In states where sample ballot or polling

place information is provided to all registrants, these studies have shown that turnout is often higher in comparison to states that do not provide the information.¹⁵ These findings bear great significance given that Latinos are more likely to possess demographic characteristics that limit their sources of information. For example, our research of the Latino electorate has shown that Latino registered voters are more likely to be new registrants unfamiliar to the election process. Latinos are also more likely to be foreign-born naturalized citizens with limited English proficiency¹⁶. This section summarizes the prevalence of the information-deficit barrier, faced by Latino voters in 2004.

Chart 3.



¹⁵ As research suggests, not receiving basic information such as the location of your polling place or some form of sample ballot that provides information about the election and voting in the election, may discourage a significant number of eligible voters from exercising their right to vote. Recent studies into the association between receiving election information (e.g. sample ballots or polling place information) and turnout have demonstrated that information equals participation. A recent study commissioned by the Center for Information and Research on Civic Learning and Engagement (CIRCLE) at the University of Maryland found that turnout in states where information about voting is mailed to registered voters was noticeably higher than in states that did not mail any information to registrants (Wolfinger, Highton, and Mullin, 2004). Further, this same study demonstrated that the impact of information about voting on turnout was greater for groups that were less likely to obtain the information from alternative sources, such as newsletters, community organizations, and political parties, etc.

¹⁶ Figures from the U.S. Census Bureau showed that in 2000 26.2% of Latino adult citizens are foreign-born. Also, in 2000, 16% of these Latino adult citizens also reported having limited English proficiency, rating their ability to speak English as "Not Well" or "Not at All" (U.S. Bureau of the Census, Census 2000).

Voter Registration and Information

Of the calls pertaining to voter registration, 38% came from callers who did not know where to register to vote. More importantly, another 35% of "Voter Registration" inquiries were from voters who had registered to vote but never received any form of confirmation that their registration had been completed or any election information that might suggest that they were registered to vote. Anecdotal reports given to us by our hotline operators revealed that callers frequently reported difficulties getting a response from their election officials regarding their registration status. In many instances, callers reported experiencing long waits on the telephone or unanswered messages when contacting election officials to inquire about problems or concerns with their voter registration.

Beyond voter registration, as Election Day neared, the increase in the number of calls received from registered voters who did not know the location of their respective polling place was dramatic. More than three-fifths of all the "Voter Information" calls that we logged were from registered voters who did not know where their polling place was located. On Election Day and the week leading up to it, operators processed 4,000 requests for polling place locations from callers in 38 different states. Inquiries regarding where to register, verification of registration, and polling place location accounted for 66% of all calls through our hotline.

It appears that the challenges faced by Latino voters in obtaining critical information, as a result of this information-deficit, stemmed from a more systemic problem with the administration of elections in the United States, and not necessarily from the traditional and more overt voter intimidation practices of the past. This analysis of specific reasons for calling the hotline reveals that, at least for Latinos, there is an administrative breakdown that occurs between the process of registering to vote and casting a ballot. This breakdown appears to be the cause of the significant barrier these voters face in getting access to timely information, a barrier that serves as a more covert and indirect form of voter disenfranchisement.

Language and Information

One of the more striking findings from our analysis, relating to the accessibility of information among Latino voters, was the disparity in the receipt of election information between Spanish speakers and English speakers who called our hotline. In this election, compared to English-speaking Latino registered voters, Spanish speakers were less likely to receive information about voting from their election officials. Of the Latino registered voters who called our hotline, those who spoke Spanish were more likely to report not having received any information about the election.

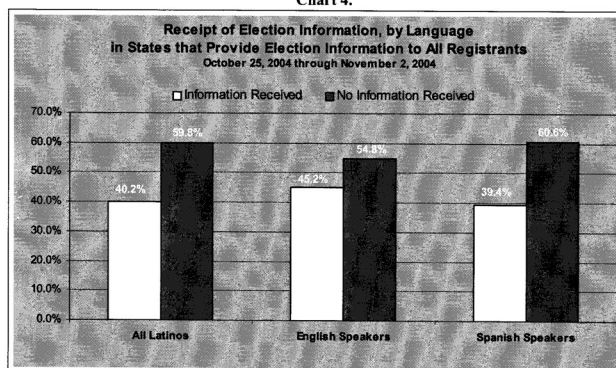
Beginning in October, operators asked callers whether they had received any election information from their election officials up to that point.¹⁷ This information generally included receipt of a sample ballot and/or polling place information. While not all states mail this information to registrants, a large share of Latino voters are registered in states that do mail this

¹⁷ Election officials usually mail out election-information to voters 40 to 30 days prior to Election Day. In anticipation of this standard practice, callers were asked if they received election-information beginning in October.

information (AZ, CA, FL, NY, and TX). Responses from callers in these states underscore our concerns.

Of the inquiries documented between October 25, 2004 and Election Day, nearly six of every ten (59.8%) callers reported not having received any information from their election officials. There is a noticeable disparity between the percentage of predominately English-speaking Latinos who did not receive election information and the percentage of predominately Spanish-speaking Latinos. Nearly half (45.2%) of all English speakers reported that they received election information. In contrast, less than forty percent (39.4%) of Spanish speakers said they received any information from officials, a difference of almost 6 percentage points. This comparison demonstrates a noticeable information-deficit among Spanish speakers (Chart 4). Overall, less than half of Latino registered voters (in states that mail election information to all registrants) reported having received any information about voting from their election officials.¹⁸

Chart 4.



¹⁸ Registration status is a factor that may account for one of the reasons why some voters may not have received election information. In many cases, when individuals register or re-register they may file a voter registration form that is deemed incomplete. In such cases, voters may have had their registration status classified as "suspended" or "inactive." Most states will not mail a sample ballot or polling place information to voters on these lists. Because we did not have access to current official voter registration files from all the states we analyzed, we were unable to measure what share of the callers who reported no receipt of election information were classified under either status. However, a large share of these callers reported being registered. The National Voter Registration Act of 1993 requires sets forth requirements for certain circumstances under which jurisdictions must notify voters that they are being removed from the official list of eligible voters for federal elections. These include some circumstances where the jurisdiction attempts to remove voters because they appear to have changed their residence and have not participated in the last two federal elections. Additionally, as experiences from the 2000 Presidential election taught us, one of the major problems with voter registration status was that of people who were incorrectly removed or suspended from voter registration lists.

Considering the important role information can play in the likelihood of turnout, these findings underscore a major barrier to Latino political participation. It appears that the ineffective administration of procedures for disseminating election materials in states that are required to provide them to all registrants is contributing to a significant share of Latino voters not receiving the information they need to cast their ballots. Ultimately, these basic administrative problems may result in the exclusion of some Latino voters from the election process.

The Case of Voter Protection Complaints in 2004

One of the primary objectives of our hotline was the protection of Latino voters against any attempts to deny them the right vote. With the collaboration of MALDEF, our hotline was prepared to inform voters who encountered any difficulties at the polls of their rights, and advise them on what action to take. The NVID interface provided a separate "voter protection intake" that operators used to document complaints alleging problems experienced at the polls. For every complaint, operators attempted to collect detailed information regarding the specific incident, the location of the polling place, witnesses present, and a description of the poll worker, when one was involved. Every complaint was referred to MALDEF attorneys for review and assessment.

On Election Day, MALDEF deployed a team of three attorneys to our Los Angeles office (the VE-Y-VOTA center of operations) to review and manage voter protection calls. Additionally, staff attorneys from regional MALDEF offices around the country (AZ, GA, IL, NM, TX, Washington D.C.) were made available to follow-up or take direct action on calls received from their respective regions. The attorneys provided real-time assessment and intervention for all of the voter protection calls received on Election Day. Through their efforts, many of the complaints received were speedily resolved. In many instances, MALDEF assistance allowed voters who initially had not been allowed to vote, to return to their polling place and cast their ballot. Every voter protection call that was received and not resolved was turned over to the Voting Rights Section at MALDEF for further review for additional information or follow-up with the caller, in order to determine if further action should be taken.

Over the course of the program, operators logged 124 voter protection inquiries. Of these complaints, 51 were logged prior to Election Day. A majority of pre-election complaints came from individuals who had encountered problems with the registration process. There were many instances where callers had attempted to resolve problems with their registration but were unable to obtain assistance in Spanish from their election officials. In many cases these callers reported having contacted their local elections office only to be told that there was no one that could provide any information or assistance in Spanish. Other callers reported experiencing excessively long waiting times on the telephone while a Spanish-speaking representative at the office was located. There were also reports from individuals who had registered to vote or re-registered through their DMV and were later informed by their election office that their registration had not been received.

On Election Day, 73 voter protection complaints were received from voters in 16 different states. A detailed account of the reported incidents was collected for 70 of the 73 inquiries logged. The complaints received from Latino voters reveal that, again, a lack of language accessibility and

administrative breakdowns accounted for many of the problems encountered by Latino voters in November 2004. The table below provides a summary of the various complaints received on Election Day. As the table summarizes, many of our callers reported difficulties obtaining assistance from poll workers in their own language—Spanish (see Table 3). Many voters with limited English proficiency reported not being able to cast a ballot because they could not obtain one in their primary language, or because poll workers were unable or unwilling to help them in Spanish.

Table 3.
Summary of Problems Reported to 1-888-VE-Y-VOTA¹⁹
November 2, 2004

Nature of Complaint	Reported Problems
Casting Ballots Total Complaints: 29	<ul style="list-style-type: none"> • People who had registered did not appear on voter lists. • Poll workers did not inform voters about provisional voting. Some reports alleged that polling places informed voters that there were no ballots available for provisional voting. • Poll workers were not placing ballots in the ballot box or voters were not allowed to place their own ballots in the ballot box. • Some voters reported being forced to cast votes outside of the voting booth (on table tops or counters) because there was no room available. • Voting equipment malfunctions were also reported. We received several reports of machines not registering votes or marking votes incorrectly. One polling place, using lever machines, reportedly allowed voters to vote on machines that had a defective button, which did not allow voters to vote for a particular candidate. In a county using optical scan machines, reports alleged that in some polling places, people were unable to vote because the ink pens used to mark the ballot had run out of ink.

¹⁹ Inquiry sub-categories have been aggregated by the general "nature of the Complaint." The three areas of complaint listed in this table are not a detailed listing of every inquiry sub-category reported in Table 1. For a list of complaints by specific inquiry sub-category please contact the NALEO Educational Fund.

Language Assistance²⁰ Total Complaints: 34	<ul style="list-style-type: none"> • <i>Spanish-speaking voters were unable to find information in Spanish about voting and/or their ballot at the polling place.</i> • <i>People requesting assistance from poll workers in Spanish were informed that none of the poll workers spoke fluent Spanish.</i> • <i>Spanish-speaking voters reported being treated rudely or ignored by poll workers.</i>
The Polling Place Total Complaints: 10	<ul style="list-style-type: none"> • <i>Polling places were hard to find. Polling place signage, meant to direct voters to the exact polling place location, were reportedly located in areas that were not visible to the general traffic of voters. Other polling places were located in areas within public sites (e.g. schools) with multiple entrances or buildings that were hard or confusing for voters to get to.</i> • <i>Polling places were not prepared to open in time. One report alleged that a polling place opened before the ballots had arrived.</i> • <i>Polling places did not have a sufficient number of pollworkers to handle the volume of voters who turned out to vote. As a result, we received reports of frustrated, irate or over-worked poll workers.</i> • <i>Polling places did not have sufficient supplies for the high volume of voters that resulted from the election's high turnout. From one precinct in the county of Los Angeles we received reports that the polling place had run out of provisional ballots due to the unexpectedly high number of persons requesting to vote provisionally.</i>

²⁰ All inquiries alleging that language assistance was denied to the voters were received from States required to provide language assistance to Spanish speakers by Section 203 and/or Section 4(f) 4 of the Voting Rights Act.

Further Research and Policy Recommendations

An assessment of the findings from our national voter protection and information program in the 2004 Presidential election—1-888-VE-Y-VOTA, suggests that Latino voters continue to face many of the same barriers to voting as in past elections. This section highlights important areas of the election process that require further attention from election advocates, researchers, and policy makers.

Tackling the Voter Information-Deficit

The challenges faced by Latino voters in obtaining the information needed to cast their ballots in this election suggests that jurisdictions still need to make significant progress in developing the adequate capacity to ensure that all registrants have equal access to this vital information. Far more extensive research into the development and implementation of jurisdictions' voter education programs and information tools must be conducted in order for the election process to be equally accessible to all eligible citizens.

- **Online Information:** From our recent efforts, we have learned that online information tools made available through election officials' websites can be an effective way of providing eligible citizens and registered voters with direct, timely, and accessible information, in some cases this web-based information has been available in multiple languages. Through such online information tools, some jurisdictions have been able to provide voters with direct information regarding: voter registration status, sample ballot information, and polling place information. For example, Harris County, Texas provided multilingual online services that allowed voters to verify their voter registration and access polling place information, directly through the county clerk's website.²¹ In contrast, however, the New York City Board of Elections, serving nearly four million registered voters in five different counties, did not make such easy-access voter information tools available for individual voters online. New York City voters attempting to access polling place information online were forced to locate the information by downloading two separate files that made up a lengthy directory of polling place locations in their respective county.²²

Jurisdictions with a large number of voters should consider incorporating such easy-access and user-friendly information tools into their office websites. However, it is critical that these tools, and the information they provide, be made equally accessible to voters of limited English proficiency. More importantly, beyond internet-based solutions for reducing the existing information-deficit, election jurisdictions must also ensure that voters with little or no access to the Internet can just as easily obtain the information. As is the case within many Latino communities and households, Internet access is often not available or very limited. To ensure that these citizens are provided with an equally efficient resource, election officials must allocate the sufficient resources needed to develop and operate multilingual voter information hotlines that are adequately staffed

²¹ <http://www.harrisvotes.org/html/spanish/docs/guide.htm>

²² <http://www.vote.nyc.ny.us/publications.jsp>

with trained personnel, with the capacity to answer questions from limited English proficient voters in a timely and cordial manner.

- **Mailing of election information:** Jurisdictions should conduct routine and systematic audits of the processes they utilize to mail election information to registrants. These audits should identify areas for improvement to ensure that every registered voter receives materials in a timely manner. An assessment of returned and undeliverable mail pieces sent out by election officials can yield important information about particular groups of registrants who may be more likely to not receive the information sent by mail. While election officials nationwide have implemented some form of data maintenance procedures to increase the accuracy of information contained in voter registration lists, it is unknown how effective these procedures have been in increasing the number of mail pieces successfully delivered to registrants. While it is estimated that about 70% of jurisdictions update registrant information by cross-referencing registration records to the U.S. Postal Service's National Change of Address Registry (NCOA)²³, we are uncertain how frequently or how early in advance of a mass mailing these records are updated. Further, while cross-referencing voter registration information to national address registry files can help enhance the deliverability of mail to registered voters, relying solely on this form of data enhancement presents some limitations that can reduce the number of verified addresses. Not all registrants complete and file a change-of-address form with the post office, especially if a person moves within the same county, city, or town. For many people such a practice is not a priority. Therefore, simple NCOA cross-referencing means many registration records may be going unchecked without any update or verification to their mailing information. One consideration may be to assess the growing use of private commercial data vendors, who are able to cross-reference addresses with massive commercial data banks that compile recent consumer information from various sources.

Language

Under Sections 203 and 4(f)4 of the Voting Rights Act, certain jurisdictions throughout the United States are required to provide language assistance to "language minority" voters, including Latino voters who need Spanish-language assistance. Generally, these jurisdictions must ensure that they provide written materials and oral assistance to language minority voters in a manner designed to allow those voters to participate effectively in voting activities. Some elections officials have decided to provide such assistance even if they are not required to under the Voting Rights Act, because they believe it will help encourage the participation of the diverse voters in their jurisdiction. However, developing adequate capacity to effectively provide multilingual assistance presents serious challenges, even for jurisdictions with large numbers of limited English proficient voters and a longstanding commitment to providing them with adequate assistance. As an example, according to complaints received from Latino voters in Los Angeles County, a county which must provide language assistance in multiple languages (Chinese, Japanese, Korean, Spanish, Tagalog, and Vietnamese) to a growing number of limited English proficient voters, Spanish speakers were experiencing difficulties with the county's

²³ United States General Accounting Office. "Elections: Perspectives on Activities and Challenges Across the Nation." Report to Congressional Requesters. October 2001. (p. 90)

multilingual voter information hotline. Voters reported long waits, frequent hang-ups while waiting for assistance, and speaking to operators who did not speak Spanish.²⁴ After communicating these complaints to the Los Angeles County Registrar Recorder-County Clerk, efforts were made to address these problems. However, the case of Los Angeles County serves to underscore the significant challenges faced by election officials in providing adequate language assistance to voters, regardless of the size or capacity of a jurisdiction.

- **Best practices for language assistance:** Given our findings this election, there is a need for further analysis into best practices for providing accurate and timely information to multilingual electorates. Issues such as:

1. Making adequate and accessible bilingual assistance available on the part of election office personnel and public information hotlines.
2. The recruitment of bilingual poll workers, preparation (design and translation) of bilingual materials.
3. The types of logistical preparations for ordering and visibly displaying materials must be assessed and evaluated.

Without providing jurisdictions with emerging minority populations the sufficient guidance on how to adequately administer multilingual elections, monolingual language minority voters may not have full and fair access as they seek to participate in the American political process.

Customer Service at the Polling Place

The polling place is the front line in the engagement between voters and their government. However, voters are often faced with poorly staffed and over burdened polling places that often fail to provide quality service to better facilitate the process of voting. After the 2000 election, an estimated 51% of jurisdictions reported having major difficulties in recruiting a sufficient number of poll workers.²⁵ According to the complaints we received from the November 2004 election, it appears that the availability of well-trained pollworkers with good voter "customer service" skills continues to pose a challenge for election officials. If polling places remain understaffed, over-worked poll workers may not be able to provide the attention to detail and quality customer service that a busy polling place demands.

Even the most comprehensive and well-designed program to reform election procedures will not improve any voter's experience at the polling place unless the program addresses the improved training and recruitment of the election workers who must actually implement those procedures. Despite many efforts to improve elections through policy changes, local election officials recognize that the quality of the election process rests on the quality of the poll workers who serve the voters on Election Day.²⁴ States and local jurisdictions both have an important role to play in improving poll worker training and recruitment:

²⁴ Vargas, Arturo and Tallman, Ann Marie. Letter to Connie McCormack, Registrar Recorder-County Clerk, Los Angeles County, October 21, 2004. (See Appendix 5 for a copy of the entire letter.)

²⁵ United States General Accounting Office. "Elections: Perspectives on Activities and Challenges Across the Nation." Report to Congressional Requesters. October 2001. (p. 8)

- **States should provide guidance and standards:** States can provide overall guidance to local jurisdictions by creating basic standards for poll-worker training, and states should also consider providing local jurisdictions with a general training curriculum. These standards should emphasize the need for jurisdictions to educate poll-workers about the proper operation of voting equipment, the specific needs of minority language voters and voters with disabilities, the non-discriminatory application of voter identification requirements, and other voters' rights. The curriculum could also cover basic "customer service" and cultural sensitivity techniques for poll-workers. The standards and curriculum should be broad enough to provide local jurisdictions with the flexibility they need to tailor poll-worker training to the specific needs of their voters; however, there should be some sense that there is a uniform set of guidelines for poll-worker training that will ensure all voters in the state receive quality service at the polling place.

States can also serve as a clearinghouse for best practices in poll-worker recruitment. Many states and local jurisdictions have innovative programs to recruit poll-workers, which include programs which encourage the participation of certain government workers, youth, or persons employed in private businesses. Local jurisdictions can benefit from learning about the programs of other localities—this can be of particular benefit for jurisdictions that first were required to comply with Section 203 requirements after the 2000 Census. These jurisdictions may not have extensive experience in recruiting bilingual poll-workers, and they may be able to gain valuable information from jurisdictions, which have a longer experience with developing such programs.

- **Local jurisdictions must implement effective assistance programs:** Local jurisdictions must make providing appropriate language assistance to Latinos and other language minority voters a top priority. While this is critical for jurisdictions that are covered by the requirements of Section 203, even jurisdictions which are not covered should consider providing such assistance if they have a significant number of language minority voters in particular precincts or polling sites. As part of their efforts, jurisdictions must not only effectively recruit and effectively train bilingual poll-workers, but they must also ensure that all of their poll-workers know how to provide quality service to language minority voters. Jurisdictions should also have systems in place to promptly investigate allegations about rude or inappropriate poll-worker behavior, and should be able to act quickly to resolve problems at polling sites.
- **Partnerships between election officials and community organizations:** In implementing the foregoing recommendations, states and local jurisdictions should work closely with community and civic organizations that have experience serving language minority voters. For example, states should consider creating advisory boards or panels that review their guidelines and model curriculum, and help the states compile information about best practices in recruiting and training bilingual poll-workers. Local jurisdictions should meet with community representatives on an on-going basis to discuss their implementation of language assistance programs, and to obtain community feedback on the effectiveness of their efforts.

Voter Registration

The process of registering to vote continues to be an administrative “Bermuda triangle” for many voters. Many Latinos who had been registered to vote in this election and voted in the past found that they had disappeared from voter rolls on or before Election Day. New registrants and re-registrants reported having registered through their state’s motor vehicles license agency (hereinafter referred to as the state’s “DMV”) only to later realize that their registration had not been processed.

States and local jurisdictions are subject to a complex set of requirements with respect to the procedures they must use to maintain their voter registration databases. These requirements are intended to ensure that ineligible persons do not get added to the rolls, and that once persons become ineligible, they are removed from the rolls. However, in implementing these requirements, states must also be careful not to remove eligible voters from their databases. Many of the federal requirements governing these matters are set forth in HAVA and in the National Voter Registration Act of 1993 (also known as the “Motor Voter Act”).

Additionally, under HAVA, states must develop a uniform database of registered voters that is maintained at the state level by January 1, 2006. States throughout the nation are in various stages of developing these databases—some have completed the process, some are in the process of acquiring new technology to develop the database, and some are converting their existing databases into HAVA-compliant voter rolls. Thus, there are still many jurisdictions where the databases are maintained at the local level.

We make the following recommendations for the voter registration processing and database maintenance:

- **Purging procedures:** We need a better understanding of the various file maintenance and purging procedures used by states and local jurisdictions throughout the country. In particular, we must learn more about whether certain groups of voters are detrimentally affected by poor data maintenance or purging practices. States and localities should develop guidelines and procedures to ensure that eligible voters are not erroneously removed from the database. These guidelines and procedures should emphasize the importance of complying with applicable state and federal laws that require notification of voters before removal occurs.
- **Voter registration processing:** In addition to the specific procedures for the purging of voter files, we also need to learn more about the overall process of voter registration processing. States and local jurisdictions need to ensure that they have effective quality control procedures in place to ensure that voter registrations are entered into the voter rolls in an accurate and timely manner. This is particularly important for the processing of registrations that are submitted near the close of registration deadlines, when jurisdictions often receive a high-volume of “last-minute” registrations. States and local jurisdictions must ensure that they have the capacity to process these registrations so that every eligible voter not only appears on the voter rolls on Election Day, but also receives pre-Election Day materials, such as sample ballots or voter information pamphlets.

- **Registrations through the DMV:** After 2000, election officials across the country reported problems with processing voter registration applications submitted through the DMV, including illegible or late forms, or applications that were never transmitted from the DMV to the election officials.²⁶ This election, our calls from Latino voters who registered with the DMV suggest that these problems still exist. Jurisdictions need to work with their DMV to see how to improve "Motor Voter" registration processing procedures.

Community-based and civic organizations

While state and local government entities have the primary responsibility for implementing improvements to election administration, their efforts will be more effective if they establish partnerships with CBOs that serve Latinos and other ethnic population groups. Additionally, these organizations play an important role in conducting voter information and engagement activities in the communities they serve. In this connection, we recommend the following:

- **Opportunities for CBO involvement:** As noted earlier, state and local jurisdictions should consult with CBOs as they implement their voter education, poll-worker training, and language assistance activities. CBOs can assist with a wide-range of activities, including reviewing the translation of materials, developing the content of trainings, identifying precincts or polling sites where the need for language assistance is particularly important, and advising election officials about the specific information needs of their communities. Many jurisdictions have developed formal partnerships with CBOs through advisory groups, some of which meet on an on-going basis. These meetings provide CBOs with an opportunity to bring concerns to the immediate attention of election officials, with the goal of resolving them as quickly as possible. CBOs should also have the opportunity to obtain information that will enable to recommend changes in the overall policies and procedures of jurisdictions that would address systemic election administration problems that affect their communities.
- **Resources for non-partisan CBO activities:** Non-partisan non-profit CBO voter education activities can complement those of state and local election officials. In some cases, Latinos or members of other ethnic population groups feel more comfortable contacting CBOs than government agencies to obtain information. CBOs also have relationships with ethnic media that can prove invaluable in disseminating election information within their communities. Additionally, CBOs can help ensure the effective administration of election procedures in their communities by maintaining voter hotlines such as 1-888-VE-Y-VOTA, or by conducting poll monitoring.

However, CBOs often lack the resources they need to for their election information activities. A few states do offer HAVA funding to non-governmental groups for non-partisan voter education, but states are tending to use HAVA funding for already-established activities conducted by government agencies. Thus, the private sector, including corporations and foundations, should explore ways to generate more resources for the non-partisan CBO voter information and engagement work. A vital and responsive democracy that is truly representative of our nation's

²⁶ United States General Accounting Office. "Elections: Perspectives on Activities and Challenges Across the Nation." Report to Congressional Requesters. October 2001. (p. 7)

diverse voices is a laudable goal, and the private sector can play an important leadership role in helping us to achieve it.

Conclusion

The problems experienced with voting systems during the 2000 Presidential election served as a catalyst for a national debate about the integrity of the American election process. It is estimated that in 2000, 4 to 6 million voters were unable to cast their vote.²⁷ Of the votes lost in the election, 1.5 million presidential votes went uncounted because of problems with voting machine technology, and it is estimated that another 4 million registered voters were unable to cast a ballot because of administrative problems (e.g. problems with their registration or other problems with the polling place). The questions and complaints received from Latino voters through our hotline in 2004 suggest that, despite efforts by Congress to address the serious failures of the American election process in 2000, the American election system, in practice, remains a fragmented system of elections in need of additional reforms.²⁸ Making political participation accessible and equitable for all Americans depends on a commitment on the part of policy makers, advocates, and election officials to ensure that every eligible person, regardless of their language abilities, race, ethnicity, or socioeconomic status, can successfully navigate the election process, from voter registration to casting a ballot.

The dramatic increase in the number of Latinos registered to vote over the last decade signals a growing interest on the part of Latinos in helping to shape American democracy. Since the last Presidential election in 2000, the number of Latinos registered to vote has continued to grow from 7.6 million in 2000 to nearly 9 million registered voters in 2004, an increase of close to one and a half million new registered voters since 2000.²⁹ However, as the Latino electorate continues to grow, without adequate and accessible information, their voice in the American political process is at risk of being muted. We estimate that nearly 6 million Latinos will become eligible to naturalize within the next five years.³⁰ As more of these Americans seek to participate in their democracy, full participation will depend on three critical factors. First, information about voting and elections in both English and Spanish must be made accessible to Latinos. Second, poll-workers must be ready to assist limited English proficient voters at the polls. Finally, election administration procedures must ensure that all eligible voters who register to vote appear on the voting rolls and receive their election materials in a timely manner.

²⁷ Caltech-MIT Voting Technology Project (2001). "Voting: What Is What Could Be." California Institute of Technology and The Massachusetts Institute of Technology Corporation, July 2001.
United States General Accounting Office. "Elections: Statistical Analysis of Factors That Affected Uncounted Votes in the 2000 Presidential Election." Report to the Ranking Minority Member, Committee on Government Reforms, House of Representatives. October 2001.

²⁸ The American election process is, in essence, an amalgam of 51 different election systems (including Washington D.C.). Further, most states have a decentralized system of elections. Beyond legislating election policies and procedures, local election jurisdictions such as counties and/or municipalities are responsible for administering and conducting elections. This means that in practice the American election system is a function of up to 10,000 distinct election systems. This fragmented system of elections results in significant differences in the way elections are conducted across different states.

²⁹ NALEO Educational Fund (2004). "2004 NALEO Educational Fund Election Projections." Los Angeles, CA.

³⁰ NALEO Educational Fund (2004). [Estimates of Hispanic Foreign-Born Population, by Citizenship Status]. Unpublished estimates prepared by Dr. Jeffrey Passel. (Available from the NALEO Educational Fund. 1122 W. Washington Boulevard, 3rd Floor, Los Angeles, CA 90015)

In response to the tremendous need for a reliable and accessible source of information expressed by the number of calls received from Latino voters in 2004, the NALEO Educational Fund intends to permanently incorporate the 1-888-VE-Y-VOTA voter information and protection hotline as a voter education component to its *Voces del Pueblo* voter mobilization program.

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Appendix 1.

1-888-VE-Y-VOTA Inquiry Totals by State and Inquiry Type											
State	Total	Voter Registration	Voter Information	Voter Protection	No Category	State Total	Voter Registration	Voter Information	Voter Protection	No Category	
Total	11,480	4,197	7,017	124	142						
AL	4	3	1			NE	15	10	5		
AR	11	3	8			NJ	303	96	195	8	
AZ	372	137	226	3	6	NM	48	17	28	3	
CA	6,259	2,482	3,667	43	67	NV	43	17	25	1	
CO	152	60	89	2	1	NY	837	223	584	17	
CT	46	17	29			OH	12	6	6		
DE	7	4	3			OK	17	12	5		
FL	422	132	269	10	11	OR	11	3	6	1	
GA	70	26	37	5	2	PA	62	18	43	1	
IA	6	1	5			RI	16	7	9		
ID	4	2	2			SC	10	7	3		
IL	441	255	177	4	5	SD	1	1			
IN	17	7	8	2	2	TN	48	13	31	4	
KS	33	10	20	1		TX	1,679	446	1,199	14	
KY	2		2			UT	10	4	6		
LA	8	4	3			VA	78	25	51	2	
MA	146	50	94	1	1	WA	39	14	23		
MD	91	31	56			WI	46	10	33	3	
MI	14	9	5	1	4	WV	2	2			
MN	12	6	6			WY	1		1		
MO	8	3	5			Special Districts and Other Geographies*					
NC	57	23	33			DC	16	3	13		
					1	PR	1	1	1		
						UNK	3		3		

* Abbreviations: "DC"= Washington D.C.; "PR"= Puerto Rico; "UNK"= Unknown (No State was entered)

Appendix 2.

Demographic Analysis of Callers

While the findings of this report may be representative of problems voters in general encountered, we are certain of their impact on the Latino electorate in this election. As part of our NVID documentation process, we were also able to collect general demographic information. However, because our primary function was to provide information and document the needs of voters, the amount of demographic information collected from callers was limited. Operators were instructed to ask callers to identify their: Age group, Sex, and Nativity. The primary language of the caller was also identified; the language the inquiry was made in determined Language preference.

Age

Two age groups comprised the majority of voters served by our efforts. Nearly one-third of the voters who called in were between the ages of 35-49 (31%). Another 21% of calls came from persons in the 25-34 year old age group. There was also a noticeable response from 18-24 year olds. This was encouraging to find since this age demographic is often categorized as less engaged.

Sex

A significant majority of calls to the hotline were received from women. More than three-fifths (65%) of callers were women. Total calls by the sex of the caller are as follows: 3,877 inquiries were received from men and 7,249 inquiries were received from women.

Language

The dominant language preference among callers was Spanish; 82% of all inquiries were made in Spanish. This finding is not surprising since Spanish speakers were the primary demographic we attempted to serve. However, a significant amount of English speakers who called the hotline allow for some comparisons between Latino Spanish-speaking and English-speaking voters.

Nativity

As our findings regarding language preference would suggest, a majority of the callers stated that they were foreign-born naturalized citizens (68%). However, a significant share identified themselves as native-born citizens, nearly one of every three callers (32%).

Appendix 3.

1-888-VE-Y-VOTA Public Service Announcement Scripts
NALEO Educational Fund/Univision Inc.

TALENT: Maria Elena Salinas, Univision News Anchor

PSA-1 "REGISTER TO VOTE": 15 SEC

NUESTRA PARTICIPACIÓN EN LA ELECCIÓN PRESIDENCIAL DEL 2 DE
 NOVIEMBRE SERÁ CLAVE.
 SU VOTO ESCOGERÁ AL PROXIMO PRESIDENTE DE ESTADOS UNIDOS...
 USTED TIENE EL PODER...USELO!!!
 PARA MAS INFORMACIÓN SOBRE LA FECHA LIMITE PARA INSCRIBIRSE PARA
 VOTAR LLAME AL NUMERO QUE APARECE EN PANTALLA...

PSA-2 "VOTE": 15 SEC

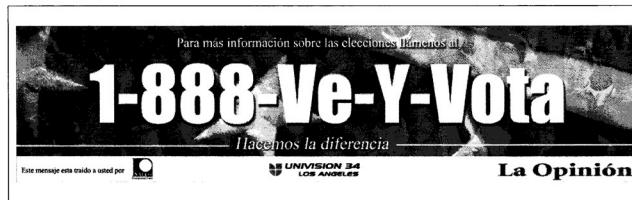
SU VOTO ES CLAVE EN LAS ELECCIONES DEL 2 DE NOVIEMBRE.
 SU VOTO.DECIDIRA QUIEN SERA EL PROXIMO PRESIDENTE DE ESTADOS
 UNIDOS...
 SI TIENE PREGUNTAS SOBRE EL PROCESO ELECTORAL, NALEO Y UNIVISION
 SE LAS PUEDEN CONTESTAR.
 LLÁMENOS AL: 1-888-VE-Y-VOTA.
 "REGISTER TO VOTE": 15 SEC

PSA-3 "REGISTER TO VOTE" (CLEAN VERSION): 15 SEC

NUESTRA PARTICIPACIÓN EN LA ELECCIÓN PRESIDENCIAL DEL 2 DE
 NOVIEMBRE SERÁ CLAVE.
 SU VOTO ESCOGERÁ AL PROXIMO PRESIDENTE DE ESTADOS UNIDOS...
 USTED TIENE EL PODER...USELO!!!
 PARA MAS INFORMACIÓN SOBRE LA FECHA LIMITE PARA INSCRIBIRSE PARA
 VOTAR LLAME AL NUMERO QUE APARECE EN PANTALLA...

Appendix 4.

La Opinión Banner



Appendix 5.

Letter to Connie McCormack, Registrar-Recorder/County Clerk, Los Angeles County

October 21, 2004

Ms. Connie McCormack
 Registrar Recorder/County Clerk
 Los Angeles County
 12400 Imperial Highway
 Norwalk, CA 90650

Dear Ms. McCormack:

On behalf of the Mexican American Legal Defense and Educational Fund (MALDEF) and the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, we wish to bring to your attention our concerns regarding Los Angeles County's bilingual language assistance for the upcoming General Election on November 2nd.

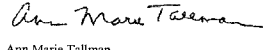
Through the NALEO Educational Fund's bilingual voter information hotline, we have documented numerous specific complaints from voters who have been unsuccessful in obtaining information in Spanish through the County's hotline. Complaints include the Spanish-language line being answered in English with no translator available, callers being placed on hold for an unreasonable amount of time, and callers being hung up on. We brought early complaints to the attention of Julia Keh, who responded by letting us know that the issues would be addressed with the appropriate staff. Two weeks later, we continue to receive these complaints and are deeply concerned that the Spanish language assistance that Los Angeles County is mandated to provide under the VRA Section 203 is not being adequately provided.

We know you value the importance of bilingual assistance to the Latino community in Los Angeles County and are committed to providing it. With the election around the corner, we wish to continue our partnership with you and address this issue in a timely manner. We would appreciate the opportunity to meet with you in person to discuss this matter and would also welcome the opportunity to visit the call center where the County receives Spanish language calls. Maria Garcia, with the NALEO Educational Fund, and Steve Reyes, with MALDEF, will follow up with your office to coordinate a meeting as soon as possible.

Thank you for your prompt attention to this matter.

Sincerely,


 Arturo Vargas
 Executive Director
 NALEO Educational Fund


 Ann Marie Tallman
 President and General Counsel
 MALDEF

Cc: Honorable Gloria Molina, Los Angeles County Supervisor, District 1

**Low-Turnout Precincts in the City of Los Angeles Mayoral Run-Off Election:
A Report on the Accessibility of Polling Places
NALEO Educational Fund
July 28, 2005**



**Project Partners:
Central American Resource Center (CARECEN)
Mexican American Legal Defense and Education Fund (MALDEF)**



Acknowledgements

The NALEO Educational Fund extends its most sincere appreciation to all the individuals and organizations that contributed their time and expertise to ensure the success of this project. Additionally, we would like to especially acknowledge the hard work and commitment of the volunteers who served as observers on Election Day. Their efforts on Election Day made this report possible.

While it is impossible to acknowledge every individual who contributed to this project, the NALEO Educational Fund we wish to acknowledge the work of our *Voces del Pueblo* staff. Maria de la Luz Garcia, who directed the program. Josue "Josh" Marcus, who coordinated our volunteers. We wish to also acknowledge Efrain Escobedo, who served as the principal researcher on the project and authored this report.

Introduction

The City of Los Angeles is the largest municipal election district in the state of California. With more than 1.5 million registered voters, the city is larger than most counties in the state. However, the city's size also presents serious challenges for administering elections efficiently and equitably. Additionally, under Section 203 of the federal Voting Rights Act and California voting rights law, the city must provide language assistance during elections to certain ethnic population groups. Administering an election in the City of Los Angeles entails: 1) Printing and mailing over one million sample ballots in seven different languages (Chinese, English, Japanese, Korean, Spanish, Tagalog, and Vietnamese), 2) Mailing and receiving absentee ballots, 3) Recruiting more than 1,500 facilities to serve as polling places across the city and more than 10,000 volunteer registered voters to serve as poll workers (of which a substantial share must be bilingual in English and one of the other six required languages). The city's scale and diversity of its electorate presents significant challenges for the City Clerk of Los Angeles, who is directly responsible for administering municipal elections. Ensuring that every election is accessible to all of its voters requires that the city maintain a constant commitment of resources and staff. This study seeks to assess the level of accessibility for polling places serving low-turnout precincts.

One of the major challenges of administering elections in the City of Los Angeles is ensuring that all of the city's voters have full access to the electoral process, particularly those who may face certain barriers to their participation. These include voters with disabilities, voters considered part of new and emerging electorates (e.g. Asian and Latino voters) and voters who are not yet fully proficient in English often referred to as Limited English Proficiency (LEP) voters. Our experience in conducting voter education and protection programs has taught us that polling places serving precincts with a large share of ethnic voters are often more likely to suffer some form of deficiency affecting the ability of these voters to cast their ballot without undue burden. Voters in these precincts are more likely to:

1. Find that their polling place was relocated to a different facility.
2. Enter a polling place with an insufficient number of poll workers.
3. Enter a polling place that has not posted all the required materials regarding a voter's rights and information about the election.
4. Enter a polling place that has run-out of the materials necessary to cast a ballot (e.g. marking pens, provisional ballots).
5. Find that their name does not appear on the voter roster.
6. Enter a polling place that does have bilingual poll workers or provide materials in more than one language (other than English).

To ensure that such polling places in the May 17, 2005 Mayoral Run-Off Election were accessible to all voters, especially Latino voters and LEP voters, a team of Latino leadership organizations partnered together to monitor and assess the accessibility of polling places in low-turnout precincts with a significant share Latino registered voters.



Project Overview

In partnership with the Central American Resource Center (CARECEN) and the Mexican American Legal Defense and Educational Fund (MALDEF), the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund conducted a mass poll monitoring project that assessed the accessibility of polling places in the May 17, 2005 Run-Off Election in the City of Los Angeles. Polling places included in the study were targeted at the precinct level. The precincts were specifically selected based on the following criteria:

1. Precincts where Latinos account for 30%+ of the registered voters.
2. Precincts where total voter turnout in the March 8, 2005 Mayoral Primary Election was below the city's overall voter turnout of 26.8%.
3. Precincts that met the 30% Latino voter registration criteria and where complaints were reported in the March 8, 2005 Mayoral Primary Election.
4. Additionally, special attention was paid to precincts that had experienced a growth in the number of Latinos registered to vote since 2001.

These criteria were specifically crafted to study voting precincts with a significant share of Latino registered voters and thus precincts with a potentially greater need for multilingual resources such as bilingual poll workers and translated materials and information. Additionally, given the growing diversity of communities in Los Angeles and specifically that of the Latino population, the project targeted traditionally non-Latino precincts that since 2001 had experienced a significant increase in the number of the Latinos registered to vote. The objective of the survey was to ensure that that low voter turnout in the March 8, 2005 General Election within these precincts was not attributed to administrative barriers created at the polling place as a result of the above mentioned problems faced by many low income, ethnic, and LEP voters. More importantly, in the traditionally non-Latino precincts with a growing share of Latino registered voters we sought to ensure that proper preparations had been made to accommodate the greater demand for language assistance on the part LEP voters. A total of 448 low turnout precincts were identified through a database we compiled using information from the [insert proper canvass citation], voter registration records obtained from the office of the Los Angeles Registrar-Recorder/County Clerk. Of the low turnout precincts identified, 30% (135 precincts) met the additional criteria of the project (e.g. 30%+ Latino registration and Latino growth precincts).

Once the polling places for the project were identified, a team of 40 volunteers was recruited and trained. The pool of volunteers consisted of NALEO staff and staff from the other partner organizations as well as volunteer students from the University of Southern California. All volunteers attended a 2-hour training a day before the election. The volunteer training covered proper polling place set-up, as well as review of and instructions on the survey instrument developed for the project.

The survey and monitoring was carried out in two waves. The first wave of observers was deployed for the opening of the polls from 7:00 AM to 11:00 AM. The second wave of observers was deployed at the expected afternoon rush time at the polls from 4:00 PM to 8:00 PM.

Problems or serious deficiencies observed at the polls were reported to the project's headquarters situated at the NALEO Educational Fund National Headquarters in Los Angeles. The complaints reported from the



field by observers were documented and reported to the office of the City Clerk's Elections Division Community Based Organization (CBO) Liaison.¹

In total, the project targeted 100 precincts and conducted 89 surveys in polling places across the city.² The following sections of this report provide a summary of survey results. The sections are organized to address the several aspects of polling place set-up and administration that might affect the accessibility of the polling place to voters.

¹ See "Appendix A" for a detailed summary of the problems logged and reported to the CBO Liaison at the Office of the City Clerk.

² The precincts targeted for this project were clustered within Council Districts: 1, 7, 9, 14, and 15.



Polling Place Accessibility Study: Summary of Results
N=89

I. Accessibility of Polling Place Locations

As in the County of Los Angeles, polling place facilities in the City of Los Angeles are volunteered for use by the owner or manager of the property. This means that the type of facilities used as polling places vary widely across the city every election, depending on the pool of sites offered for use to the election official. Common types of polling places include: residential units, private businesses, schools, and churches. Each type of facility is structurally and functionally different and thus may present unique challenges to voters attempting to locate the polling place. In our survey we asked observers to respond to a series of questions pertaining to the visibility of the polling place, access to parking, and the presence of signage to guide voters to the exact location of the polling place (this is especially important in large multipurpose buildings where a polling place may be located in a specific room or section of the building or facility). The section below provides an analysis of the different types of facilities utilized in low-turnout precincts as polling places and their general accessibility in the May 17th Run-Off Election.

Polling Place Type

The survey revealed that half of the sites used as polling places in the election could be classified as "Public Buildings" (e.g. schools, libraries, community centers). Another 36% of polling places surveyed were located in either a "Church" or some other type of facility. Of the sites our observers visited, less than one in ten were housed in a private residence. Private businesses were also a small share of polling places.

Table 1.

Polling Place Facility Types³		
City of Los Angeles Mayoral Run-Off		
Tuesday, May 17, 2005		
<u>Facility Type</u>	<u>N</u>	<u>% Of Total</u>
Residence	5	6.4%
Business	6	7.7%
Public Building	39	50.0%
Church	14	17.9%
Other	14	17.9%

Polling Place Signage

Given the diversity of polling place sites throughout the city, our study evaluated the general accessibility of the polling places utilized by the Los Angeles City Clerk in the May 17, 2005 Mayoral Run-Off Election. Overall, the 89 surveys taken reveal that, for the most part, polling places were readily identifiable in the election. In nearly 100% of the sites, observers were able to easily identify the polling place address. Observers also reported visible signage, identifying the location as a polling place at all the sites surveyed.

³ The N for polling places represents the number of distinct sites visited. Because 11 polling place sites were surveyed twice, once in the morning and again in the afternoon only distinct sites are evaluated.



However, the posting of multilingual signage, required by federal and state law in the polling places we surveyed, was not consistent throughout the sites we observed. In addition to documenting the presence of signage at and around the polling place, observers were also asked if all the signage posted was translated into either multiple languages or at least into Spanish. According to observer responses, in 37% of the polling places the posting of multilingual signage was partial or completely absent. In 7% of the polling places no multilingual signage was posted at the time of the survey.

Access to Parking at the Polling Place

A large number of voters in the city travel to their polling place by car. Therefore, access to convenient parking is an important consideration to take into account when assessing the accessibility of polling places. In the study we found that more than one third of the polling places did not provide parking to voters directly on-site (37.9%). However, almost all these polling places did have some form of parking available off-site near the polling place. These results suggest that securing polling place facilities that provide parking on-site for voters is still a challenge, but one that at least in our observations, would seem manageable if the City Clerk was to make a committed effort to ensure that commuter voters have access to parking at or near the polling place.

Summary of Results

1. Is the address of the polling place in clear sight for voters arriving to the site?

Yes.....	84.9%
No.....	15.1%
Non-Response.....	3.4%

2. Is the polling place address and specific location the same as the one provided to you?

Yes.....	93.1%
No.....	6.9%
Non-Response.....	2.2%

3. Is there official signage posted that indicates that this is a polling place?

Yes.....	100%
No.....	0%
Non-Response.....	0%

4. Are all the signs posted, printed in multiple languages (or at least Spanish)?

Yes.....	62.8%
Partial Multilingual Signage.....	30.2%
No.....	7.0%
Non-Response.....	3.4%

5. Is there parking available at or near the polling place?

Yes, on site.....	62.1%
Yes, near site.....	32.2%
No.....	5.7%
Non-Response.....	2.2%



6. Were you able to follow the directional signs and enter the polling place with ease?

Yes.....	92.9%
No, required assistance.....	5.9%
No.....	1.2%
Non-Response.....	4.5%

II. Polling Place Set-Up and Capacity

The second battery of questions completed by observers pertained to the layout of the polling place. How prepared was the polling place to accommodate the turn out of voters? Did each polling place provide complete information regarding the process of voting, the rights afforded to all voters, and information pertaining to the election and the ballot being used? And finally, was the information provided to voters at the polling place completely translated?

Our analysis revealed that nearly fifty percent (47.7%) of the polling places in the sample were serving more than one election precinct. The practice of assigning one polling place to serve more than one election precinct is also referred to as precinct consolidation. Although precinct consolidation is a common practice utilized by election officials as a way of reducing the number of polling places needed for an election, the practice often creates some confusion for voters who are accustomed to voting in an unconsolidated polling place.

At a consolidated polling place every election precinct is kept separate from each other, that is, every precinct has separate check-in tables and voting booths. Identifying which table corresponds to your precinct can often create some confusion for voters and can also affect the administration of the election. Confused voters require additional assistance from poll workers to determine where their correct precinct is stationed. Even though every precinct is required to post their precinct number and to also have an identifiable marker, our observers found that one quarter of all consolidated precincts did not have signs at every table, identifying the precinct each served.

As a whole, virtually all of the low turnout precincts we visited had an average of five voting booths available. In this election every voting booth was equipped with a laminated display copy of the official ballot in multiple languages. However, as we have learned from past observations and through our advocacy work around poll worker training and polling place set-up, some of these innovative steps to make information accessible to the voter inside the voting booth have been hindered by the improper set-up of voting booths. For example, we learned that during the March 8 2005 General Election there were instances where poll workers set-up the voting booth inside out, displaying the voter instructions on how to vote as the outside surface of the booth. Of the booths we inspected this election, 96.5% had the laminated display in its proper place for voters to use.

Summary of Results

7. Is the polling place housing two or more precincts?

Yes.....	47.7%
No.....	52.3%
Can't tell.....	0.0%
Non-Response.....	1.1%



8. If so, were there signs indicating which precinct table you should go to?
- | | |
|-------------------|-------|
| Yes..... | 74.7% |
| No..... | 25.3% |
| Non-Response..... | 2.2% |

9. Was there a line of voters when you arrived?
- | | |
|----------|-------|
| Yes..... | 29.4% |
| No..... | 70.6% |

Voters in Line at the Polling Place

Min/Line.....	1
Max/Line.....	21
Avg/Line.....	4.2
Stan. Deviation.....	1.6
Non-Response.....	4.5%

10. How many voting booths are set up?
- | | |
|----------------------------|------|
| Average/Polling Place..... | 4.6 |
| Non-Response..... | 3.4% |

11. Does each voting booth have a copy of the official ballot displayed in multiple languages?
- | | |
|-------------------|-------|
| Yes..... | 96.5% |
| No..... | 3.5% |
| Non-Response..... | 4.5% |

III. Accessible Voter Information at the Polling Place

Federal and State election laws require that every voter have access to information about their rights as a voter and how to report any violation of those rights. Additionally, voters should have access to information regarding the use of voting equipment and the items on the ballot (access to a sample ballot). To assess the accessibility of such information at the polling place, our observers were trained and instructed to identify vital articles of information that must be visible to voters at the polling place. Every observer was required to record whether such information was visibly displayed for voters and then to document whether that particular article of information was also available in a language other than English. Because the observers who participated in this project were primarily English dominant or bilingual (English/Spanish), the instrument used to record these results allowed observers to identify languages in only four different linguistic categories: "Spanish," "Asian," "Other," and "English Only."

Results gathered from our observers indicate that in nearly one of every three polling places we visited there was at least one article of information that was either missing or had not been posted by poll workers. Additionally, results also revealed another third or more of polling places did not have vital information regarding the rights of voters visibly posted in Spanish or any of the required Asian languages. These articles included multilingual copies of the "Voter Bill of Rights" issued by the Secretary of State, information about casting a provisional ballot, and information about how to report voter fraud. Only two thirds of the



polling places surveyed had displayed a "Voter Bill of Rights"⁴ in Spanish. In less than half the polling places (49.3%), observers were able to locate information about casting a provisional ballot and only 31.2% of polling places had information about reporting voter fraud clearly displayed in Spanish. The table below provides additional statistics for the different articles of information and multiple languages assessed by observers.

Table 2.⁵
Language Accessibility of Educational and Informational Signage at the Polling Place
City of Los Angeles Mayoral Run-Off Election 2005
NALEO Educational Fund Polling Place Accessibility Study

	Spanish		Asian		English Only		Displayed ⁶	
	Yes	No	Yes	No	Yes	No	Yes	No
Voter Bill of Rights	66.7%	33.3%	64.2%	35.8%	43.2%	56.8%	89.8%	10.2%
Sample Ballots	85.5%	14.5%	73.7%	26.3%	31.6%	68.4%	66.7%	33.3%
Information on Provisional Voting	49.3%	50.7%	43.7%	56.3%	49.3%	50.7%	87.2%	12.8%
Contact Information for Election Officials	20.0%	80.0%	20.0%	80.0%	26.7%	73.3%	50.0%	50.0%
Hotline Numbers	43.1%	56.9%	38.5%	61.5%	47.7%	52.3%	81.8%	18.4%
Voter Registration Information	23.4%	76.6%	18.2%	81.8%	9.1%	90.9%	69.5%	30.5%
Information on Voter Fraud	31.2%	68.8%	28.6%	71.4%	18.2%	81.8%	58.5%	41.5%

The percentages reported in the table above may belie the actual level of accessibility. We must keep in mind that the assessment was conducted by trained volunteers with at least some level of college education, civic engagement, or a good command of the English language. The characteristics possessed by our volunteers are qualities that the average voter with limited English proficiency may not possess. If our volunteers documented a significant level of difficulty in locating such vital information, one would expect that the average voter would have greater difficulty.

IV. Assessment of Poll Worker Readiness and Demographics

Poll workers play the most important role in ensuring that elections are administered properly and with due courtesy and efficiency. Poll workers are essentially the "frontlines" of the electoral process – they are the

⁴ Note that the "Voter Bill of Rights" distributed by the office of the City Clerk in this elections was the version issued by the Election Division of the California Secretary of State. Upon our review of the information posted our observers discovered that the sign posted notified voters of identification requirements for newly registered voters under the Help America Vote Act of 2002. While new identification requirements apply for federal and statewide elections, no voter in Los Angeles municipal elections is required to present any form of identification in order to vote. The City Clerk's CBO Liaison was notified of the issue.

⁵ Percentages presented in this matrix were calculated by utilizing the number of total responses for each individual information category in the denominator. The non-response rate for each cell varies. Average non-response across groups was equal to 4.2% with a minimal variance of .00068%.

⁶ In addition to documenting the availability of signage in multiple languages, observers were asked to document whether the information was posted in general, regardless of the language. The "Displayed" column represents the share of polling places that did and did not post each article of information surveyed.



only point of contact between many individual voters and the voting system on Election Day. In many respects, poll workers function as gatekeepers to the American electoral process. They can exert a sufficient amount of influence in being able to deny eligible voters the right to vote. Poll workers can also erect barriers to information for many voters. As an example, in the assessment of voter information above, anecdotal reports from observers stated that poll workers did possess many of the materials the observers were looking for in English and the other required languages, but the poll workers had chosen not to display them.

Given the importance of poll workers to the proper administration of elections, we collected demographic information about the poll workers administering the election in these low turnout precincts. Utilizing this information we have constructed a demographic profile to help us assess the compatibility of the poll worker force with the communities they served.

Demographic Profile of Poll Workers

<i>Sex</i>		
Male	.....	30.8%
Female	.....	69.2%
<i>Age⁷</i>		
18-35	.....	23.8%
36-45	.....	23.5%
46-55	.....	24.1%
56-65	.....	15.3%
65+	.....	13.3%
<i>Ethnicity</i>		
Asian	.....	9.5%
Black	.....	42.4%
Latino	.....	35.7%
White	.....	12.4%
Other	.....	0.0%
<i>Language⁸</i>		
English	.....	58.8%
Spanish	.....	31.9%
Asian	.....	8.0%
Other	.....	1.3%

The profile above demonstrates a fairly diverse pool of poll workers. In the past, both election officials and election advocates have acknowledged that the profile of poll workers has been characterized as individuals over 50 years of age and ethnically distinct from the communities they serve. Within the polling

⁷ The age of Poll workers was collected by having individual poll workers or the inspector identify the appropriate age group for each poll worker.

⁸ A certain level of English ability was assumed for all poll workers. For this section of the profile, observers were instructed to list any additional languages the poll worker was able to provide assistance in (e.g. Spanish or one of the Asian languages). This information was collected using two methods: 1) observers were instructed to look for bilingual poll worker badges, issued by the office of the City Clerk to identify any additional language the poll worker was able to speak, 2) observers were instructed to ask the poll worker directly.



places we visited, nearly half (47.3%) of all poll workers were under the age of 50.⁹ These poll workers were also ethnically diverse, with 10% identified as Asian, 42% of poll workers identified as Black, 36% identified as Latino, and 12% as White.

As we would expect, the higher proportion of Asian and Latino poll workers has a significant association with the share of poll workers who identify themselves as bilingual in one of the Asian languages and Spanish. While our analysis did not establish whether there is a significant correlation between the two, our knowledge and experience of elections leads us to strongly recommend that election officials continue and strengthen their efforts in recruiting bilingual poll workers that mirror the demographics of the communities they serve.

The Readiness and Experience of Polling Place Inspectors

The polling place inspector plays an even greater role at the polling place. Beyond receiving and setting up voting equipment and materials for the election, the polling place inspector functions as the supervisor for that specific polling place, ensuring that poll workers are conducting their duties in accordance with established protocol and election law. Properly trained inspectors are a necessity to a lawful and accessible election.

However, beyond proper training it is also important to have inspectors who are familiar and sensitive to the needs of voters in the immediate community. For this reason, recruiting inspectors who reside within the precinct they manage often results in a more accessible polling place or at least a polling place that the community can relate to. In our study, we found that nearly half (45%) of all the inspectors interviewed did not reside in the immediate precinct.

In this election, polling place inspectors assigned to low-turnout precincts reported some form of past experience in working as a poll worker. Of the polling place inspectors interviewed, 80% reported past experience as either an inspector or poll worker; 33% had worked as both an inspector and a poll worker. Among the inspectors, 10% reported working as an inspector for the first time.

Through our own advocacy work around the proper training of poll workers, we have observed that the past experience of inspectors can often present a challenge to election officials' efforts to adequately train poll workers. Experienced poll workers/inspectors, at times, demonstrate a level of reluctance in accepting and incorporating new laws governing the administration of elections. One example of this phenomenon has been the implementation of new laws governing voter identification (ID) requirements and the rules governing provisional voting. Other times, the training of experienced poll workers/inspectors is complicated by their sense of preparedness by virtue of experience. These poll workers/inspectors often do not feel it necessary to attend poll worker trainings because they have administered numerous elections in the past. This attitude often makes it difficult for the election official conducting the trainings to communicate new policies or special circumstances important to the administration of a given election.

Poll inspectors in these precincts were asked a series of questions concerning such issues as a measure of their preparedness. When asked if registered voters living within the precinct would need to present ID before voting, 96% of inspectors, correctly, advised our observers that no ID would be required to vote.

⁹ It is important to note that the significant share of younger poll workers in this election may be a product of the committed efforts on the part of the Office of the City Clerk to proactively recruit both high school and college student poll workers from across the city.



Another 96% told our observers that an eligible voter who did not appear on the precincts voter roster would still be able to vote. However, while nearly all inspectors correctly stated that a voter who did not appear on the roster would still be able to vote, 23.2% of the inspectors failed to mention any eligible voter could vote in the election by way of "Provisional Ballot."

Summary of Results

- | | |
|---|-------|
| 18. Do you live within this precinct? | |
| Yes..... | 55.0% |
| No..... | 45.0% |
| Non-Response..... | 10.1% |
| 19. Have you worked as a poll worker or inspector in other elections? | |
| Yes, as inspector and poll worker..... | 32.9% |
| Yes, as inspector..... | 31.7% |
| Yes, as poll worker..... | 25.6% |
| No, first time..... | 9.8% |
| Non-Response..... | 7.9% |
| 20. Were you provided with additional supplies in case you run out? | |
| Yes..... | 79.0% |
| No..... | 21.0% |
| Non-Response..... | 9.0% |
| 21. If I were a voter in this precinct would I be required to show ID in order to vote? | |
| Yes..... | 3.7% |
| No..... | 96.3% |
| Non-Response..... | 7.9% |
| 22. If I am a voter in this precinct and my name does not appear on your list will I still be able to vote? | |
| Yes..... | 96.3% |
| No..... | 3.7% |
| Non-Response..... | 9.0% |
| 23. [OBSERVER] Did the inspector mention the use of a "Provisional Ballot" in their response? | |
| Yes..... | 76.8% |
| No..... | 23.2% |
| Non-Response..... | 7.9% |

Poll Worker Attrition

Poll workers in the City and County of Los Angeles are recruited as paid volunteers, earning on average less than \$75.00 for about 13 hours of work. While the service of being a poll worker can be very rewarding to many, the realities of a high cost of living, inflexible work hours, and two-worker households have made the recruitment of poll workers a very difficult task for election officials. Many willing volunteers are not sufficiently convinced to forego a day's worth of wages for a \$75.00 incentive. As a result of these and other factors, there is often a significant level of poll worker attrition, that is a number of persons who



agree to serve as poll workers on Election Day often fail show up to the polls, leaving the polling place inspector short of staff. The table below documents the level of attrition at the sites we visited.¹⁰

Table 3.
Poll Worker Attrition Rates
City of Los Angeles Mayoral Election
Tuesday, May 17, 2005

Attrition Range	Total Precincts	%
<i>Surplus: (Exceeded expected attendance)</i>		
<0 ¹¹	11	12.4%
<i>Par: (Complete attendance)</i>		
0	26	29.2%
<i>Sub-par (One or more no shows)</i>		
1	18	20.2%
2	12	13.5%
3	6	6.7%
>3	3	3.4%
NR	13	14.6%
TOTAL	89	

In this analysis we find that one third of the polling places had one or two poll workers who did not show up on Election Day (20% and 14% respectively). In nine of the polling places, three or more poll workers had not arrived at the time of the survey. Another 29% of the polling places saw a perfect attendance rate on the part of poll workers and in at least seven of the polling places there was a surplus of poll workers. Although the City Clerk's office in Los Angeles had a pool of stand-by poll workers on reserve to compensate for attrition rates, the absence of scheduled poll workers and the interval of time spent on deploying a reserve poll worker does introduce a certain level of disruption at the polling place. Further, in cases where the absent poll worker(s) is bilingual, LEP voters may be unduly disadvantaged.

V. Voting at the Polling Place

The final component of this study asked observers to conduct a 30-minute observation of voting activity at the assigned polling place. Each voter interaction was documented by hand on a special tally sheet with predetermined outcome variables that observers used to classify the outcomes of each observation.

In total, observers documented 721 voter interactions. Of these voters, 57% were Latino, 22% Black, 12% Asian, and another 8% White. Overall, almost every voter who showed up to vote in the observation was

¹⁰ The level of attrition was calculated by taking the difference of totals from two different questions that collected information on the number of poll workers present at the polling place and the number that polling place inspectors were told were scheduled to work on Election Day.

¹¹ Four of the cases aggregated in the "Surplus" category involved consolidated precincts. NALEO observers may have included poll workers assigned to the adjacent precinct.



able to cast a ballot. Only four voters of the 721 observed were not allowed to vote (three Latino and one White). However, a larger share of voters did not appear on the voter roster when they attempted to vote. Latino voters had the highest incidence of this type; 17 Latino voters did not appear on the roster, accounting for 4% of the Latino voters observed. A larger number of these [Latino] voters cast their vote on a provisional ballot (6%).

Among Asian and Latino voters, being able to receive language assistance from a poll worker at the polls is an important resource in casting a ballot; 12% of the voters observed from each group required language assistance from a poll worker in order to cast their ballot.

Table 4.¹²
Polling Place Voting Activity Observations, by Voter Race or Ethnicity
City of Los Angeles Mayoral Run-Off Election
Tuesday, May 17, 2005

	Asian		Black		Latino		White		Unknown		Total
	N	%	N	%	N	%	N	%	N	%	N
Total Observations	85	11.8%	160	22.2%	414	57.4%	56	7.8%	4	0.6%	721
Observation Outcomes ¹³											
Language Assistance	10	11.8%	2	1.3%	49	11.8%	1	1.8%	0	0.0%	62
Not on Roster	2	2.4%	0	0.0%	17	4.1%	1	1.8%	0	0.0%	27
Inspector Assistance	0	0.0%	1	0.6%	10	2.4%	1	1.8%	0	0.0%	13
Voted	76	89.4%	154	96.3%	398	96.1%	52	92.9%	4	100.0%	669
Not Voted	0	0.0%	0	0.0%	3	0.7%	1	1.8%	0	0.0%	4
Provisional Vote	3	3.5%	3	1.9%	25	6.0%	3	5.4%	0	0.0%	35

VI. Conclusions

The polling place accessibility project was helpful in furthering our knowledge and approach in assessing elections. The implementation of a survey approach to measuring the accessibility of polling places in the May 17th Run-Off Election yielded a reliable and uniform source of information that helped us paint a clear picture of how easy or difficult it was for voters to locate their polling place, how accessible information about the election and voting was for all voters (especially LEP voters), and what type of poll worker pool was recruited to help administer the election.

The following is a list of observations and issues that were raised by the results of this survey:

1. Polling places in low-turnout precincts were fairly easy to locate and enter. The project's observers were able to find their assigned polling places with some ease and a majority of the facilities used as polling places had accessible parking at or near the site.
2. The general observation on the part of community advocates has maintained that a disproportionate level of precinct consolidation takes place in low-turnout areas, often areas with a large share of minority voters. However, we have not been able to obtain a statistical comparison

¹² Row percentage totals may not add up to 100% because of rounding.

¹³ "N" values for observation outcomes may sum to a total greater than total observations because every observation may have multiple outcomes. "%" Values may also total more than 100% because percentages for observation outcomes are based on "Total Observations."



between low-turnout and high-turnout precincts. Thus, it is unknown whether the rate of precinct consolidation in low-turnout areas is comparable or greater than that of high-turnout areas. The 48% rate of consolidation that was observed in our study results in the increased clustering of voters from various precincts into one location. The obvious challenge for election officials lies in ensuring that a sufficient number of polling places are secured in these areas and that the necessary consolidation of precincts does not result in a dense clustering of voters in these areas. In instances where consolidation must take place, officials should remain committed to taking the necessary steps to ensure that facilities serving more than one precinct are central to all voters and able to accommodate all voters (e.g. accessible parking, sufficient voting booths, sufficient number of poll workers, and adequate assistance and information for LEP voters). Finally, the tables that set-up for each of the precincts being served must be readily identifiable.

3. While the City of Los Angeles has made a commendable effort in providing voters with a LEP voters with complete information and access to bilingual poll workers, multilingual information in low-turnout precincts across the city was inconsistent and in some instances non-existent at some of the polling places surveyed. Access to voting and election materials in all the languages required by Section 203 of the Voting Rights Act must be consistent at all polling places. In order to comply with such requirements and ensure that information is accessible to all voters, we expect that multilingual information and signage at the polling place should be found in every polling place where voters will be casting their ballots. We found that in this election only about two-thirds of all polling places had all the required materials in multiple languages. Less than perfect multilingual access to all materials at the polling place underscores the outstanding need for election officials to ensure that poll workers understand the importance of having all materials and information posted and easy to find at all polling places.
4. The pool of poll workers who helped administer the election was diverse in terms of age, ethnicity, and linguistic ability. Nearly one third of poll workers were bilingual in English and Spanish, 10% were of Asian decent and 42% were Black. However, considering that the precincts targeted in this study were those with a significant share of Latino registered voters, we would urge election officials to continue and augment efforts to recruit a sufficient number of bilingual poll workers. As both the Latino and Asian electorates continue to grow rapidly and more new citizens participate in the American electoral process, the number of bilingual poll workers should grow at a proportionate pace.
5. Finally, we are pleased to report that almost every voter observed in our study was able to cast a ballot in this election. Among these voters Asians and Latinos demonstrated a significant need for language assistance from poll workers in order to successfully cast a ballot. Additionally, observers did document a small number of instances where voters did not appear on the roster and had to vote by provisional ballot.

As we continue our efforts to ensure that elections in the city and county of Los Angeles are accessible, we look forward to working with election officials, community organizations, and other elected and appointed officials. It is the expectation of the NALEO Educational Fund and our partner organizations that the results and findings of this survey will help identify not only areas of concern in the administration of elections, but also areas of success that can provide election officials an objective gauge of best practices.



Appendix A.



MALDEF



NALFO

Voces del Pueblo Poll Monitoring
TROUBLE SHOOTER PROBLEM REPORT LOG
City of Los Angeles Mayoral Run-Off Election
Tuesday, May 17, 2005

Precinct #	Report Time	Reported To
9001032A	10:30 am	
During the first visit observers did not find multilingual materials displayed at the polling place. The problem was reported to the Office of the City Clerk who informed us that an inspector would be deployed. During our second visit that afternoon observers encountered rude poll workers and again reported that no multilingual materials were displayed.		
Precinct #	Report Time	Reported To
9002039D	10:30 am	
A voter from a different precinct mistakenly arrived at this precinct. The voter was given instructions to the correct voting precinct but was not offered the option of voting by provisional ballot in this precinct. The city workers returned to the precinct to report late voter that was sent to precinct 9001199. The voter was then allowed to vote provisionally in the second precinct.		
Precinct #	Report Time	Reported To
9001987A	9:30 am	
No multilingual copies of the voter bill of rights were displayed. The directional signage guiding voters into the polling place has been incorrectly placed at an entrance which voters were not allowed to use at that facility. Of the polling place and the polling place doors were closed. The poll workers at this site were giving voting instructions by marking laminated sample ballots with official candidate information.		
Precinct #	Report Time	Reported To
9002456A	10:45 am	
There was no parking as well as no handicap access and poll workers were not offering curbside voting to voters who could not access the polling place.		
Precinct #	Report Time	Reported To
None specific		
Voter Bill of Rights issued by CA Secretary of State lists HAVA requirement for identification. This should not be displayed since the City of Los Angeles was not requiring any voter to demonstrate identification at the polls.		
Precinct #	Report Time	Reported To
9002542A	2:30 pm	
The voting booths were set up inside out with the instructions on how to vote facing out away from the voter. There was also no handicap access and had to instruct poll workers that they should be offering curbside voting to voters with disabilities who could not enter the polling place.		
Precinct #	Report Time	Reported To
9001791B	6:20 pm	
The polling place had no signs posted to identify it as a polling place. The site was extremely disorganized, there were long lines, and no informational materials were available for voters. At the time of the visit observers reported the polling place had run out of ballots. At the conclusion of our observation no ballots had yet arrived.		
Precinct #	Report Time	Reported To
9000408A	7:05 pm	



This polling place was a consolidated, housing multiple precincts. During the observation poll workers informed our observers that there was no Inspector present to close their precinct. Office of the City Clerk advised us to instruct poll workers at that precinct to ask the Inspector of adjacent precinct to assist because the city could not send an Inspector out on time.

Precinct #	Report Time	Reported To
9002628B	8:59 am	

Observer could not find a sign for the precinct number 9002628B posted at the polling place. The command central called it in to the city liaison. A call back was scheduled. The office of the City Clerk advised that the number on our records was part of a number series used by the Los Angeles County Registrar-Recorder County Clerk. The office of the City Clerk confirmed the precinct 9002628A is the same as 9002628B. The issue was resolved.

Precinct #	Report Time	Reported To
9001186A	2:10 pm	

There was no multilingual signage displayed at the time of observation and the Inspector was not at the polling place at 9:30 am.

Precinct #	Report Time	Reported To
9001587A	2:30 pm	

There were no bilingual poll workers present and the polling place inspector reported that there was no interpreter physically present at the time of observation.

Precinct #	Report Time	Reported To
9001587A-9002651A	4:00 pm	

No bilingual poll workers were present at the time of our observation. The office of the City Clerk was called to report this incident and they stated that a bilingual inspector was called to the precinct at 3:15 pm.

Precinct #	Report Time	Reported To
9002549A	5:40 pm	

No bilingual poll workers were available at the time of our observation. Our observers were informed that two voters had placed calls to the office of the City Clerk to report the problem. Observers also reported the problem to the City Clerk.



VOTING RIGHTS CASES BROUGHT ON BEHALF OF AMERICAN INDIANS AND/OR INTERPRETING THE VOTING RIGHTS ACT RE: INDIAN INTERESTS. FROM JENNIFER ROBINSON, DANIEL MCCOOL, AND SUSAN OLSON: *NATIVE VOTE: AMERICAN INDIANS, THE VOTING RIGHTS ACT, AND THE RIGHT TO VOTE*. FORTHCOMING. CAMBRIDGE UNIVERSITY PRESS, 2006

From Jennifer Robinson, Daniel McCool, and Susan Olson. *Native Vote: American Indians, the Voting Rights Act, and the Right to Vote*. Forthcoming: Cambridge University Press, 2006.

Table 1. Voting Rights Cases Brought on Behalf of American Indians and/or Interpreting the Voting Rights Act re Indian Interests

Case Name	Year filed: Civil Action #	Court	Legal Issue	Major or Latest Court Opinion	Attorneys for Indians	Outcome
Klahr v. Williams (originally Klahr v. Goddard)	1965: 5112 P1X	USDC, Arizona	Do state House and Senate districts encompassing Navajo reservation violate the Equal Protection Clause of the 14th Amendment? Protection in population size and treatment of Navajo reservation?	339 F. Supp. 922 (D. Ariz. 1972)	n/a	In long-running redistricting dispute, court finds Navajo reservation intentionally gerrymandered to destroy electoral strength.
Apache County v. U.S.	1966: 292-66	USDC, District of Columbia	May Arizona and three counties bail out of VRA coverage under Sec. 4(a)? Navajos attempted to intervene and oppose.	256 F. Supp. 903 (D.D.C. 1966)	DoJ	Intervention denied. Bailout is permitted.
Goodluck v. Apache County consolidated with: U.S. v. Arizona	1973: 73-526 PCT 1974: 74-50 PCT	USDC, Arizona	Does a more than 10:1 disparity in population of county and districts violate the 13th Amendment and the VRA?	417 F. Supp. 13 (Ariz. 1975) aff'd 429 U.S. 976 (1976)	Legal Services DoJ	Indians are citizens and have the right to vote. The appointment is invalid.
Little Thunder v. South Dakota	1974: 74-3033	USDC, South Dakota	Does law preventing residents of unorganized counties from voting for county officers violate the Equal Protection Clause of the 14th Amendment?	518 F.2d 1253 (8th Cir. 1975)	Legal Services	Yes, plaintiffs prevail.
Maine v. U.S.	1975: 75-2125	USDC, District of Columbia	Bailout action by 19 Maine municipalities from VRA special provisions (Sec. 4-9)	Order and partial summary judgment Sept. 17, 1976; stipulation July 5, 1977	DoJ	19 municipalities are released from coverage, but Pleasant Point Reservation remains covered under Sec. 203.

Simenson v. Bell and Plottin (originally Simenson v. Lavi and Berabai)	1976: 76-59-HG	USDC, Montana	Ballot action by Roosevelt County, MT, from coverage under Sec. 203	Memorandum and order, Jan. 24, 1976	DoJ	County fails to show that literacy rate of Indians in county is below national average.
New Mexico v. U.S.	1976: 76-0067	USDC, District of Columbia	Ballot action on behalf of three New Mexico counties from coverage under Sec. 4(f)(4)	Order, July 30, 1976	DoJ	Permitted: English-only elections were not discriminatory because language minority was also fluent in English.
Chodlaw and McCurtain Counties v. U.S.	1976: 76-1250	USDC, District of Columbia	Ballot action on behalf of two Oklahoma counties from coverage under Sec. 4(f)(4)	Order, May 12, 1976	DoJ	Permitted: English-only elections were not discriminatory because language minority was also fluent in English.
Independent School District of Tulsa v. Bell	1976: 76-C-573-B	USDC, Northern Oklahoma	Declaratory judgment action to establish that Cherokee language is unwritten, so plaintiff need not provide written election material in Cherokee.	Memorandum opinion, December 7, 1977	DoJ	Summary judgment for plaintiff—DoJ did not object.
Apache County High School District (Arizona) v. U.S.	1977: 77-1815	USDC, District of Columbia	Was the School District obligated to get preclearance pursuant to Sec. 5 for procedural changes in a school bond election, and should preclearance be granted?	Memorandum opinion, June 12, 1980	DoJ	Summary judgment for U.S.— preclearance denied
U.S. v. Town of Barleime	1978: 78-C-101	USDC, Eastern Wisconsin	Does de annoucement of reservation from town and exclusion of Indian voters violate VRA?	Order, February 17, 1978	DoJ	Plaintiffs win preliminary injunction.
U.S. v. Humboldt County	1978: R-78-0144	USDC, Nevada	Was voter registration of Indians inhibited in violation of Sec. 2?	Order, September 7, 1978	DoJ	Plaintiffs win temporary restraining order.
U.S. v. Thurston County	1978: 78-C-380	USDC, Nebraska	Does at-large election system for electing county supervisors dilute Indian votes under 14th, 15 th amendments and Sec. 2?	Consent decree May 9, 1979	DoJ	County agrees to create seven single-member districts.

U.S. v. Tripp County	1978: 78-3045	USDC, South Dakota	Does reapportionment of Tripp and Todd Counties require Sec. 5 preclearance?	Order, February 6, 1979	DoJ	State ordered to submit plan
U.S. v. South Dakota, Fall River County	1978: 78-5078	USDC, South Dakota	Does law preventing residents of unorganized counties from voting for county offices violate the Equal Protection Clause of the 14th Amendment, the 15 Amendment, or Sec. 2 of the VRA?	636 F. 2d, 241 (8 th Cir. 1980)	DoJ	8 th Circuit reverses District Court and rules exclusion does violate Equal Protection.
U.S. v. County of San Juan	1978: 78-507 JB	USDC, New Mexico	Does at-large election of the county commission violate Sec. 2?	Stipulation, April 8, 1980	DoJ	County agrees to change to single-member districts after 1980 census.
U.S. v. County of San Juan	1978: 78-508 JB	USDC, New Mexico	Did elections comply with the bilingual election requirements of Sec. 203?	Stipulation, April 8, 1980	DoJ	County agrees to expand Navajo voter registration, information, and assistance program.
U.S. v. South Dakota, Tripp County, Fall River County	1978: 78-3039	USDC, South Dakota	Must state law revising system of organized and unorganized counties be precleared under Sec. 5 of the VRA?	Order, May 20, 1980	DoJ	Implementation of the law is enjoined.
Canady v. Lumberton City	1980: 80-215-Civ-3	USDC, Eastern North Carolina	May elections proceed if annexation to district has not been precleared under Sec. 5?	454 U.S. 857 (1981)	ACLU; Lumberton River Legal Services	District court required preclearance, and Supreme Court enjoins election without it.
South Dakota v. U.S.	1980: 80-1978	USDC, District of Columbia	Declaratory judgment action to establish that Congress's Counties Act does not violate the VRA	Consent decree, Dec. 2, 1981	DoJ	Act is not precleared. New tax, contracting, and election provisions are agreed to.
Goddard v. Babbitt	1981: 81-1497-PHX	USDC, Arizona	Do legislative and congressional districts violate the 14 th and 15 th Amendments?	536 F. Supp. 538 (D. Ariz. 1982)	private	Districts struck down; stipulated revised plan places reservation in one district instead of three.

Sanchez v. King	1982: 82-0067; 82-0094; 82-0180; 82-0216; 82-0246	USDC, New Mexico	Does legislative redistricting plan violate Equal Protection Clause, Sec. 27 Amendment, and VRA, Sec. 2?	550 F. Supp. 13 (D.N.M. 1982); aff'd 659 U.S. 801 (1983); order on remand Aug. 8, 1984	NYC, DOJ, several legal services agencies	Appointment based on prior votes cast violates Equal Protection. Subsequent plan violates 2 votes in violation of Sec. 2.
Snelgrove Mdewaketon Sioux Community, Edith Crooks, and the U.S. (Intervenor) v. City of Prior Lake	1983: 83-1059	USDC, Minnesota	Does city's exclusion of Indians from city had annexed 11 years earlier violate the VRA and Equal Protection Clause?	771 F.2d 1153 (8 th Cir. 1985)	DOJ	8 th Circuit upholds district court injunction and rules annexation is invalid, so Indians may vote.
Windy Boy v. Big Horn County	1983: 83-225	USDC, Montana	Does at-large election of county commissioners and the school district trustees violate Sec. 2 of the VRA and the 14 th and 15 th amendments?	647 F. Supp. 1002 (D.Mont. 1986)	ACLU	Court orders defendants to propose redistricting plan that seat some members elected by district.
U.S. v. San Juan County	1983: C-83-1286	USDC, Utah	Does at-large election of county commissioners dilute votes under Sec. 2 of the VRA?	Settlement and order, April 4, 1984	DOJ	County agrees to change to three single-member districts.
U.S. v. San Juan County	1983: C-83-1287	USDC, Utah	Did elections comply with the bilingual election requirements of Sec. 203 of the VRA?	Settlement and order, January 11, 1983	DOJ	County agrees to improve assistance to Navajo voters.
Largo v. McKinley Consolidated School District	1984: 84-1751	USDC, New Mexico	Do at-large school board elections violate Sec. 2 of the VRA?	Consent decree, March 21, 1988	NYC	School district adopts single-member districts in November 1988.
Estevan v. Grants-Cibola County School District	1984: 84-1752	USDC, New Mexico	Do at-large school board elections violate Sec. 2 of the VRA?	Order to enjoin election, Dec. 17, 1984	NYC	Parties agree to postpone election to see if legislature mandates single districts, which it shortly does.
Buckanaga v. Sisseton School District	1984: 84-1025	USDC, South Dakota	Do at-large school board elections violate Sec. 2 of VRA?	804 F.2d 468 (8 th Cir. 1986); 15 Indian L. Rep. 3119 (D.S.D. 1988)	NARF	Court of Appeals reverses District Court and finds violation. 1988 consent decree adopts cumulative voting for at-large seats.

American Horse v. Kunder	1984: 84-5159	USDC, South Dakota	Did county's rejection of cards from Indian voter registration drive violate 14 th and 15 th amendments?	Order, November 5, 1984	n/a	Court orders county to permit Indians to vote.
Felipe and Ascencio v. Cibola County Commission	1985: 85-0301	USDC, New Mexico	Does at-large election of county commissioners violate Sec. 2 of the VRA?	Consent decree, Feb. 18, 1987	NYC	County adopts single-member districts for commissioner elections.
Tso v. Ciba Independent School District	1985: 85-1023	USDC, New Mexico	Do at-large school board elections violate Sec. 2 of the VRA?	Consent decree, May 18, 1987	NYC	Five single-member districts created with new elections for all seats
Fiddler v. Slater	1986: 86-3050	USDC, South Dakota	Did small number of voter application cards made available for Indian registration drive violate Sec. 2 of VRA and 14 th , 15 th amendments?	Order, October 22, 1986	NYC	Court orders extended deadline for registration.
Black Bull v. Dupree School District	1986: 86-3012	USDC, South Dakota	Did county's failure to provide sufficient polling places on the reservation violate Sec. 2 of VRA and 14 th , 15 th amendments?	Settlement, May 14, 1986	NARF and legal services	School district agrees to establish polling places on reservation, reschedule election, and do more publicity.
Kirk v. San Juan College Board	1986: 86-1503	USDC, New Mexico	Do at-large elections for board of public junior college violate Sec. 2 of the VRA?	Order, February 1987	NYC	Court requires single-member districts.
U.S. v. McKinley County	1986: 86-0028	USDC, New Mexico	Does county's provision of assistance to Navajo and Zuni voters satisfy Sec. 203 of the VRA?	941 F. Supp. 1052 (D.N.M. 1996)	DoJ	County agrees to improved assistance and federal examiners, but when US wants to extend examiners for 10 more years, court refuses. Parties settle in 1997 for extension till 2001.
U.S. v. McKinley County	1986: 86-0029	USDC, New Mexico	Does county's configuration of precincts and polling places violate Sec. 2 of the VRA?	Consent decree, Jan. 13, 1986	DoJ	County agrees to restructure the precinct boundaries, increase the number of polling places from 19 to 25, announce the new precincts to voters.

Casuse v. City of Gallup	1986: 86-1007	USDC, New Mexico Supreme Court of New Mexico	Does city's home-rule charter establishing at-large elections for city council violate Sec. 2 of the VRA and a 1985 state statute requiring cities over 10,000 people to use single-member districts?	746 P.2d 1103 (N.M. 1987)	NYC	Case certified to New Mexico Supreme Court, which rules state law invalidates home rule charter.
Clerk v. Holbrook Unified School District	1986: 86-0143-PTC	USDC, Arizona	Does at-large school board election dilute Indian votes in violation of Sec. 2 of the VRA?	703 F. Supp. 86 (D.C. Ariz. 1989)	NYC	Judge orders hearing on plaintiffs' motion for a preliminary injunction.
U.S. v. Arizona	1988: 88-1869-PHX	USDC, Arizona	Do language assistance provided Navajo speakers and other voting access practices violate the standards of Sec. 4(f)(4) and Sec. 2 of the VRA?	Consent decrees, May 22, 1989 and Sept. 26, 1993; dismissed Dec. 14, 1995	DoJ	State agrees to create Navajo Election Information Program.
Bouranne v. Bernalillo School District	1988: 88-0212	USDC, New Mexico	Do at-large school board elections violate Sec. 2 of the VRA?	Consent decree, Nov. 23, 1988	NYC	District adopts single-member district elections.
U.S. v. State of New Mexico; Sandoval County	1988: 88-1457	USDC, New Mexico	Do language assistance provided Navajo and Keres speakers and other voting access practices violate the standards of Sec. 203 and Sec. 2 of the VRA?	Settlement March 28, 1990; consent decrees in 1984 and 1987	DoJ	State agrees to create Native American Election Information Program; minority fails to fully comply, then later consents to terms.
Cuthair v. Montezuma-Cortez School District	1986: 89-C-864	USDC, Colorado	Does at-large election of school board members dilute Indian votes in violation of Sec. 2 of VRA?	7 F. Supp. 2d 1152 (D.Col. 1998)	ACLU	At-large election for all seats does violate Sec. 2. Under consent decree one majority-minority district is created, with other seats elected at-large.
Stabler v. Thurston County	1993: 93-00394	USDC, Nebraska	Under Sec. 2, does at-large election of school board and village trustees dilute Indian votes? Are Indians entitled to a third majority-minority district for county board of supervisors following redistricting?	129 F.3d 1015 (8th Cir. 1997); cert denied 1998 U.S. LEXIS 3119	ACLU	Court of Appeals upholds District Court decision of third majority-minority district, but finds plaintiffs did not meet 3 Gingles preconditions for striking at-large school board and village elections

U.S. v. Cibola County	1993: 93-1134	USDC, New Mexico	Do county's language assistance to Navajo speakers, election practices, and polling locations violate the standards of Sec. 203 and Sec. 2 of the VRA and the 14 th and 15 th amendments?	Joint stipulation April 21, 1994; order April 22, 2004	DoJ	County agrees to detailed Native American Election Information Program; after 10 years DOJ obtains 2-year extension due to incomplete implementation.
U.S. v. Socorro County	1993: 93-1244	USDC, New Mexico	Do county's language assistance to Navajo speakers and other voting members violate the standards of Sec. 203 and Sec. 2 of the VRA and the 14 th and 15 th amendments?	Consent agreement, April 11, 1994	DoJ	County agrees to detailed Native American Election Information Program.
U.S. v. Arizona	1994: 94-1845-PHX	USDC, Arizona	May state proceed with judicial elections in the absence of preclearance under Sec. 5 of the VRA?	1994 U.S. Dist. LEXIS 17609	DoJ	Court enjoins judicial election until preclearance obtained.
Arizona v. Reno	1994: 94-2054	USDC, District of Columbia	What are the standards for preclearance under Sec. 5 of the VRA for adding judgeships that are elected county-wide?	867 F. Supp. 318 (D.D.C. 1995); cert granted but not decided pursuant to Rule 48, 519 U.S. 1155 (1996)	DoJ	Sec. 5 preclearance does not require meeting the Sec. 2 standard of nondiscriminatory effects, but U.S. is entitled to ascertain the extent of discriminatory purpose.
Old Person v. Brown (originally Old Person v. Cooney)	1996: S-95-04-GF	USDC, Montana	Do state House boundaries following redistricting dilute Indian votes in violation of Sec. 2 of the VRA?	230 F.3d 1113 (9 th Cir. 2000); 182 F. Supp. 2d 1002 (D. Mont., 2002)	ACLU; Indian Law Resource Center	8 th Circuit vacates finding of no dilution, but on remand district court again finds no dilution and even if dilution, no available remedy, given imminence of post-2000 redistricting.
U.S. v. Parnell School District	Notice letter, Aug. 29, 1999	North Dakota	Does at-large election of school district members dilute Indian votes in violation of Sec. 2 of the VRA?	None	DoJ	Negotiations following notice letter led to election of April 15, 1997, adopting district system for elections.
U.S. v. Roosevelt County Board of Commissioners	1999: n/a	USDC, Montana	Does at-large election of county commission members dilute Indian votes in violation of Sec. 2 of the VRA?	Consent agreement, March 24, 2000	DoJ	County agrees to create three single-member districts.

U.S. v. Bernalillo County	1998-98-166	USDC, New Mexico	Do county's language assistance to Navajo speakers and other voting citizens violate standards of Sec. 2 and Sec. 203 of the VRA and the 14 th and 15 th amendments?	Consent decree, April 27, 1998; stipulation July 1, 2003	DoJ	County agrees to provide numerous specific types of assistance to Navajo-speaking voters.
U.S. v. Benson County	2002: n/a	USDC, North Dakota	Does at-large election of county commissioners dilute Indian votes in violation of Sec. 2 of the VRA?	Settled March 8, 2000	DoJ	County agrees to return to elections by single-member districts
Matt v. Ronan School District	1999-99-94-M	USDC, Montana	Does at-large election of school trustees dilute Indian votes in violation of Sec. 2 of the VRA and the 14 th and 15 th amendments?	Stipulation, January 13, 2000	ACLU; Indian Law Resource Center	School district agrees to create two multi-member districts, one of which is majority-minority.
Alden v. Rosebud County Board of Commissioners	1998-99-148-BLG	USDC, Montana	Does at-large election of county commissioners dilute Indian votes in violation of Sec. 2 of the VRA and the 14 th and 15 th amendments?	Order, May 10, 2000	ACLU; Indian Law Resource Center	Court orders creation of three single-member districts before redistricting based on 2000 census occurs.
U.S. v. Day County and Enemy Swim Sanitary District	1999-99-1024	USDC, South Dakota	Does intentional exclusion of Indian voters from a proposed sanitary district violate Sec. 2 of the VRA and the 14 th and 15 th amendments?	Consent decree with county, May 14, 1999; with sanitary district n/a	DoJ	County defendants agree to approve incorporation of inclusive sanitary district; Enemy Swim District continues litigation, but settles after motion for summary judgment is denied.
U.S. v. Blaine County	1999-99-122-GF	USDC, Montana	Does at-large election of county commissioners dilute Indian votes in violation of Sec. 2 of the VRA?	353 F.3d 897 (9 th Cir. 2002), cert. denied, 125 S. Ct. 1824 (2005)	DoJ; Montana State Legal Fdn for depts	9 th Circuit upholds district court ruling that at-large elections do violate Sec. 2 and dismissing defendants' argument that Sec. 2 is unconstitutional.
McConnell v. Blaine County	2001: 01-91-GF	USDC, Montana	Does at-large election of county commissioners dilute Indian votes in violation of Sec. 2 of the VRA?	Denial of intervention; 37 Fed. Appx. 276; 2002 U.S. App. LEXIS 10663 (9 th Cir. 2002)	ACLU	Private suit filed when courts denied plaintiffs' intervention in U.S. v. Blaine County. Private parties appear as plaintiffs. Intervenor-appellees in 353 F.3d 897.

Erney v. Hunt	2000: 00-3008	USDC, South Dakota	Does resumption of at-large elections in legislative district formerly divided into 2 subdistricts, one of which had been majority-minority, dilute votes in violation of Sec. 2 of the VRA?	615 N.W.2d 580 (S.D. 2000) USDC order, Aug. 10, 2000 272 F.3d 1042 (8 th Cir. 2001) (fees)	ACLU; DOJ intervened	USDC certifies to state supreme court, which rules redistricting permitted only once a decade. Federal claims are mooted. Attorney fee issues later go to 8 th Circuit.
Frank v. Forest County	2001: 01-C-847	USDC, Eastern Wisconsin	Does districting plan for county supervisors dilute Indian vote in violation of Sec. 2 of VRA and thus violate Equal Protection (18% in Indian population)?	338 F.3d 570 (7 th Cir. 2003)	Private counsel	Deviation in size is acceptable when district populations are approximately equal to meet Congress' political apportionment criterion on Sec. 2 claim.
Bone Shirt v. Hazeltine	2001: 01-3032	USDC, South Dakota	Must legislative district boundaries be predeclared under Sec. 5 of the VRA even if only two counties are covered jurisdictions, and does districting dilute Indian votes in violation of Sec. 2 by packing Indian voters into a single district?	Predeclaration: 200 F. Supp. 2d 1150 (D.S.D. 2002) Vote dilution: 338 F. Supp. 2d 976 (D.S.D. 2002) Indian remedy: 387 F. Supp. 2d 1035 (2005)	ACLU	Legislative districts do require predeclaration, and identified districts do violate Sec. 2.
Quick Bear Quiver v. Hazeltine	2002: 02-5069	USDC, South Dakota	Do all voting changes in state that affect two covered counties have to be predeclared under Sec. 5 of the VRA?	Consent order, Nov. 8, 2002	ACLU	SD agrees to seek predeclaration of 600+ statutes and regulations since 1972 and refrain from implementing two specific statutes until predeclaration obtained.
Navelo Nelson v. Arizona Independent Redistricting Commission	2002: 02-0807-PHX consolidated with 02-0795-PHX	USDC, Arizona	Do legislative district boundaries diminish the voting strength of minority voters in violation of Sec. 2 of the VRA and are they unequal in population in violation of the Equal Protection Clause?	230 F. Supp. 2d 688 (D.Ariz. 2002)	n/a	Indian plaintiffs withdrew from the case when DOJ objected to predeclaration because of districts in Hispanic but not Indian areas of the state.
Weddell v. Wagner Community School District	2002: 02-4096	USDC, South Dakota	Do at-large elections of school board and polling locations and number of locations violate Sec. 2 of the VRA?	Consent decree, March 16, 2003	ACLU	School board members will continue to be elected at-large, but a cumulative voting system will be used for school polling place will be relocated.

Cottier v. City of Martin (originally Wittcox v. Martin)	2002: 02-5021	USDC, South Dakota	Does a plan distributing the Indian reservation lands among city council districts violate Sec. 2 of the VRA?	Memorandum opinion and order March 22, 2003	ACLU	Plaintiffs failed to prove white bloc voting sufficiently to meet third <i>Gringles</i> criterion. On appeal as #05-1895 (8 th Circ.)
Kirkle v. Buffalo County	2003: 03-5024	USDC, South Dakota	Do county commission districts with over 10 times greater population in Indian district than white district violate Equal Protection Clause?	Consent decree, Feb. 10, 2004	ACLU	County agrees to new equal-sized districts and a special election.
ACLU of Minnesota v. Kiffmeyer	2004: 04-CV-4653	USDC, Minnesota	Do limits on acceptance of tribal ID cards as voter identification for voting violate Equal Protection and Help America Vote Act?	Temp. restraining order, 2004 U.S. Dist. LEXIS 22966 (C. Minn. 2004); consent judgment, Sept. 9, 2005	ACLU	State agrees to accept tribal ID cards on same basis as other ID cards.
Daechle v. Thune	2004: 04-4177	USDC, South Dakota	Does copying license plate numbers or following cars of Indian voters violate Equal Protection and VRA?	Order, Nov. 2, 2004	n/a	Sen. Daechle won temporary restraining order the night before the election.
Blackmoon v. Charles Mix County	2005: 05-4017	USDC, South Dakota	Do county commission districts that divide Indian population and deviate over 15% in size violate Sec. 2 of the VRA and the 14 th and 15 th amendments?	365 F. Supp. 2d 1108 (D. S.D. 2005); order Oct. 24, 2005	ACLU	Malapportionment violates Equal Protection; existing districts enjoined.
Large v. Fremont County	2005: 05-09-270	USDC, Wyoming	Does at-large election of county commissioners violate Sec. 2 of the VRA and the 14 th and 15 th amendments?	Filed Oct. 20, 2005	ACLU	pending